

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(1) UNITED KINGDOM LEGISLATION/1. General purposes.

WEIGHTS AND MEASURES (

1. LEGISLATION

(1) UNITED KINGDOM LEGISLATION

1. General purposes.

The main objects of the legislation relating to weights and measures¹ are: to define national standards by which weights and measures can be verified; to prescribe units of measurement which may be used in trade; to secure that only verified and stamped weighing and measuring equipment is used for trade; and to regulate the sale of commodities and packages by quantity. The legislation also makes provision for administration and enforcement, and for subsidiary and incidental matters such as the appointment of inspectors.

The implementation of certain European Directives² has extended the controls over weights and measures beyond the traditional 'use for trade'³ so as to include, for example, the use of units of measurement for public health, public safety or administrative purposes.

1 As to the legislation relating to weights and measures see PARA 2 post.

2 See EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) (see PARA 5 post), implemented by the Units of Measurement Regulations 1986, SI 1986/1082 (as amended) (see PARA 47 post), the Weights and Measures (Metrication Amendments) Regulations 1994, SI 1994/1851, the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, the Units of Measurement Regulations 1994, SI 1994/2867, and the Units of Measurement Regulations 1995, SI 1995/1804; and EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (as amended) (see PARA 5 post), implemented by the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARA 96 post).

3 As to use for trade see PARA 66 post.

UPDATE

1-5 General purposes ... In general

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

1 General purposes

NOTE 2--Directive 90/384 replaced: European Parliament and EC Council Directive 2009/23 (OJ L122, 15.5.2009, p 6); references to the repealed directive should be construed as references to Directive 2009/23: art 17, Annex VIII. See also the Units of Measurement Regulations 2009, SI 209/3046.

UPDATE

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(1) UNITED KINGDOM LEGISLATION/2. The legislation.

2. The legislation.

The law relating to weights and measures is mainly contained in the Weights and Measures Act 1985, which consolidated¹ and repealed the whole of the Weights and Measures Acts 1963 and 1979 and most of the Weights and Measures etc Act 1976². Certain provisions of the latter Act³ were, however, retained to provide for the alleviation of shortages of food and other goods.

There is a considerable amount of European legislation dealing with weights and measures and related topics⁴, and an increasing amount of the subordinate legislation relating to weights and measures stems from the European Communities Act 1972⁵.

Certain legislation dealing with other areas of consumer protection law, such as price marking, is also relevant in relation to weights and measures⁶.

In some instances there are similar or parallel provisions, and it may be necessary to consider which provisions should be applied to the particular circumstances⁷.

1 See the Weights and Measures Act 1985 preamble.

2 See *ibid* s 98(1), Sch 13 Pt I.

3 *Ie* the Weights and Measures etc Act 1976 ss 12-14 (as amended), 15(1)-(3), Sch 6 (as amended): see PARA 108 *post*.

4 See PARA 5 *post*.

5 See *eg* the Units of Measurement Regulations 1986, SI 1986/1082 (as amended) (see PARA 47 *post*); and the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARAS 68, 96 *post*). As to subordinate legislation see PARA 3 *post*.

6 See *eg* the Price Marking Order 2004, SI 2004/102; para 119 *post*; and SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 682 *et seq*. As to cognate law see further PARAS 6-15 *post*. As to consumer protection generally see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 383 *et seq*.

7 See *eg* the provisions relating to EEC pattern approval and EEC verification (see the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended); and PARA 75 *post*), and those relating to EC type-examination and EC verification (see the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236; and PARA 96 *post*).

UPDATE

1-5 General purposes ... In general

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(1) UNITED KINGDOM LEGISLATION/3. Subordinate legislation.

3. Subordinate legislation.

Subordinate legislation relating to weights and measures is effected by either orders or regulations made by the Secretary of State¹ under the Weights and Measures Act 1985. In relation to the implementation of relevant European law, subordinate legislation is also effected by regulations made under the European Communities Act 1972².

Any power to make orders or regulations conferred on the Secretary of State by the Weights and Measures Act 1985 is exercisable by statutory instrument; and any such order or regulations may make different provision for different circumstances³.

Before making an order under any provision of the Weights and Measures Act 1985⁴ or regulations relating to dual marking and conversion charts⁵ or packaged goods⁶, the Secretary of State must consult such organisations as appear to him to be representative of interests substantially affected by the order or regulations⁷.

An order under any provision of the Weights and Measures Act 1985⁸ must not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament⁹.

Any statutory instrument containing regulations made under the Weights and Measures Act 1985 is subject to annulment in pursuance of a resolution of either House of Parliament¹⁰.

A local weights and measures authority¹¹ may make byelaws relating to the sale of solid fuel, subject to the confirmation of the Secretary of State¹², and for wood fuel, subject to notice being given to the Secretary of State¹³.

1 As to the Secretary of State see PARA 16 post.

2 I.e. by virtue of powers under the European Communities Act 1972 s 2(2) where the subject matter would be ultra vires the Secretary of State's power to make regulations under the Weights and Measures Act 1985. As to European legislation see further PARA 5 post.

3 Weights and Measures Act 1985 s 86(1).

4 I.e. except *ibid* s 11(16) (see PARA 69 post), s 62 (see PARA 18 post), s 69(4) (see PARA 20 post), s 94(2) (see PARA 66 note 6 post) or s 96(1), Sch 11 para 7 (see PARA 69 note 3 post).

5 I.e. regulations under *ibid* s 9: see PARA 57 post.

6 I.e. regulations under *ibid* Pt V (ss 47-68) (as amended): see PARA 205 et seq post.

7 *Ibid* s 86(2) (amended by the Deregulation and Contracting Out Act 1994 s 81, Sch 17). In the case of an order made under the Weights and Measures Act 1985 s 1(3) (see PARA 39 post) or s 8(6) (see PARA 46 post) which relates to imperial units, measures or weights, the Secretary of State, in acting under s 86(2) (as amended), must have particular regard to the need to consult organisations representative of the interests of consumers: s 86(3). Before making an order under s 62 (as amended) (see PARA 18 post), the Secretary of State had to consult an appropriate organisation: see s 86(4).

8 I.e. except *ibid* s 11(16) (see PARA 69 post), s 69(4) (see PARA 20 post), s 94(2) (see PARA 66 note 6 post) or Sch 11 para 7 (see PARA 69 note 3 post).

9 *Ibid* s 86(5) (amended by the Deregulation and Contracting Out Act 1994 Sch 17).

10 Weights and Measures Act 1985 s 86(6).

11 For the meaning of 'local weights and measures authority' see PARA 20 post.

12 See the Weights and Measures Act 1985 s 21, Sch 5 para 9 (as amended); and PARA 178 post.

13 See *ibid* s 21, Sch 6 para 12; and PARA 203 post.

UPDATE

1-5 General purposes ... In general

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

3 Subordinate legislation

NOTE 4--Reference to 1985 Act s 62 (repealed) omitted: s 86(2) (amended by SI 2006/659).

NOTE 6--Reference to regulations under 1985 Act Pt V (repealed) omitted: s 86(2). 1985 Act Pt V repealed: SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(1) UNITED KINGDOM LEGISLATION/4. Application to the Crown and to royal and visiting forces.

4. Application to the Crown and to royal and visiting forces.

Generally the Crown is not bound by the provisions of any statute unless it is expressly or by necessary implication so provided by the statute¹. Her Majesty may by Order in Council provide for the application to the Crown of such of the provisions of the Weights and Measures Act 1985 or of any instrument made thereunder as may be specified in the Order, with such exceptions, adaptations and modifications as may be so specified².

Without prejudice to the generality of the above, an Order in Council so made may make special provision for the enforcement of any provisions applied by the Order and in particular as to the person liable to be proceeded against for any offence under any such provision³.

A statutory instrument containing an Order in Council so made is subject to annulment in pursuance of a resolution of either House of Parliament⁴.

Any exemption, immunity or privilege which subsists in respect of the Weights and Measures Act 1985 by virtue of the rule of law with respect to the application of enactments to the Crown extends to visiting forces or headquarters, and to the property held or used for the purposes of such forces or headquarters, as if those forces or headquarters formed part of the home force⁵.

1 See *Thomas v Pritchard* [1903] 1 KB 209 at 212, DC; and STATUTES vol 44(1) (Reissue) PARA 1321. See also CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 384; CROWN PROCEEDINGS AND CROWN PRACTICE vol 12(1) (Reissue) PARA 101 et seq.

2 Weights and Measures Act 1985 s 88(1). At the date at which this volume states the law, no such Order in Council had been made and none has effect as if so made.

3 Ibid s 88(2).

4 Ibid s 88(3).

5 Visiting Forces and International Headquarters (Application of Law) Order 1999, SI 1999/1736, art 12(1), Sch 5; Interpretation Act 1978 s 17(2)(b). For the meaning of 'visiting force' see ARMED FORCES vol 2(2) (Reissue) PARA 140; and for the meaning of 'headquarters' see ARMED FORCES vol 2(2) (Reissue) PARA 150.

UPDATE

1-5 General purposes ... In general

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/ (2) EUROPEAN LEGISLATION/5. In general.

(2) EUROPEAN LEGISLATION

5. In general.

There is a considerable amount of European legislation relating to weights and measures¹, some of it being quite general in nature, and some of it applying to specific kinds of weighing and measuring instruments or to the weighing and measuring of particular substances. In addition, legislation relating to other areas, such as consumer protection and food safety, is often relevant. European legislation relating to weights and measures includes:

- 1 (1) EC Council Directive of 26 July 1971 on common provisions for both measuring instruments and methods of metrological control²;
- 2 (2) EC Council Directive of 26 July 1971 on medium accuracy rectangular and cylindrical weights³;
- 3 (3) EC Council Directive of 26 July 1971 on gas volume meters⁴;
- 4 (4) EC Council Directive of 26 July 1971 on meters for liquids other than water⁵;
- 5 (5) EC Council Directive of 12 October 1971 on the measuring of the standard mass per storage volume of grain⁶;
- 6 (6) EC Council Directive of 12 October 1971 on ancillary equipment for meters for liquids other than water⁷;
- 7 (7) EC Council Directive of 12 October 1971 on the calibration of the tanks of vessels⁸;
- 8 (8) EC Council Directive of 19 November 1973 on non-automatic weighing machines⁹;
- 9 (9) EC Council Directive of 19 November 1973 on material measures of length¹⁰;
- 10 (10) EC Council Directive of 4 March 1974 on weights of above medium accuracy¹¹;
- 11 (11) EC Council Directive of 17 December 1974 on cold-water meters¹²;
- 12 (12) EC Council Directive of 19 December 1974 on the making up by volume of certain pre-packaged goods¹³;
- 13 (13) EC Council Directive of 19 December 1974 on bottles used as measuring containers¹⁴;
- 14 (14) EC Council Directive of 20 May 1975 on aerosol dispensers¹⁵;
- 15 (15) EC Council Directive of 24 June 1975 on continuous totalising weighing machines¹⁶;
- 16 (16) EC Council Directive of 20 January 1976 on the making up by weight or by volume of certain pre-packaged products¹⁷;
- 17 (17) EC Council Directive of 27 July 1976 on alcoholometers and alcohol hydrometers¹⁸;
- 18 (18) EC Council Directive of 27 July 1976 on alcohol tables¹⁹;
- 19 (19) EC Council Directive of 27 July 1976 on cosmetic products²⁰;
- 20 (20) EC Council Directive of 4 November 1976 on electrical energy meters²¹;

- 21 (21) EC Council Directive of 21 December 1976 on taximeters²²;
- 22 (22) EC Council Directive of 5 April 1977 on measuring systems for liquids other than water²³;
- 23 (23) EC Council Directive of 5 December 1978 on automatic check-weighing and weight grading machines²⁴;
- 24 (24) EC Council Directive of 11 September 1979 on hot-water meters²⁵;
- 25 (25) EC Council Directive of 20 December 1979 on units of measurement²⁶;
- 26 (26) EC Council Directive of 15 January 1980 on the ranges of nominal quantities and nominal capacities permitted for certain pre-packed products²⁷;
- 27 (27) EC Council Directive of 26 May 1986 on tyre pressure gauges for motor vehicles²⁸;
- 28 (28) EC Council Directive of 13 June 1988 on extraction solvents used in the production of foodstuffs and food ingredients²⁹;
- 29 (29) EC Council Directive of 22 June 1988 on flavouring for use in foodstuffs and source materials for their production³⁰;
- 30 (30) EC Council Directive of 21 December 1988 on food additives authorised for use in foodstuffs intended for human consumption³¹;
- 31 (31) EC Council Directive of 21 December 1988 on quick-frozen foodstuffs for human consumption³²;
- 32 (32) EC Council Directive of 20 June 1990 on non-automatic weighing instruments³³;
- 33 (33) EC Council Regulation of 26 June 1990 on certain marketing standards for poultry³⁴;
- 34 (34) EC Council Regulation of 26 June 1990 on certain marketing standards for eggs³⁵;
- 35 (35) EC Council Directive of 14 June 1993 concerning medical devices³⁶;
- 36 (36) EC Council Regulation of 28 October 1996 on the common organisation of the market in fruit and vegetables³⁷;
- 37 (37) EC Council Directive of 20 March 2000 on labelling, presentation and advertising of foodstuffs³⁸;
- 38 (38) EC Council Directive of 20 December 2001 on certain sugars intended for human consumption³⁹;
- 39 (39) EC Council Directive of 31 March 2004 on measuring instruments⁴⁰.

1 As to the implementation of European Council Directives in the United Kingdom by subordinate legislation see PARA 3 ante.

2 I.e EC Council Directive 71/316 (OJ L202, 6.9.71, p 1) (amended by EC Council Directive 72/427 (OJ L291, 28.12.72, p 156); EC Council Directive 83/575 (OJ L332, 28.11.83, p 43); EC Council Directive 87/354 (OJ L192, 11.7.87, p 43); EC Council Directive 88/665 (OJ L382, 3.12.88, p 42); EC Council Directive 87/355 (OJ L192, 11.7.87, p 46)), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post).

3 I.e EC Council Directive 71/317 (OJ L202, 6.9.71, p 14), implemented by the Weights Regulations 1986, SI 1986/1683 (as amended) (see PARA 81 post) and the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post).

4 I.e EC Council Directive 71/318 (OJ L202, 6.9.71, p 21) (amended by EC Commission Directive 74/331 (OJ L189, 12.7.74, p 9); EC Commission Directive 78/365 (OJ L104, 18.4.78, p 26); EC Commission Directive 82/623 (OJ L252, 27.8.82, p 5)), implemented by the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988, SI 1988/296 (as amended) (see PARA 9 post; and FUEL AND ENERGY vol 19(2) (2007 Reissue) PARA 947 et seq). See also note 40 infra.

5 I.e EC Council Directive 71/319 (OJ L202, 6.9.71, p 32), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

6 I.e EC Council Directive 71/347 (OJ L239, 25.10.71, p 1), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post).

7 le EC Council Directive 71/348 (OJ L239, 25.10.71, p 9), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

8 le EC Council Directive 71/349 (OJ L239, 25.10.71, p 15), implemented by the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125 (as amended) (see PARA 97 post).

9 le EC Council Directive 73/360 (OJ L335, 5.12.73, p 1) (amended by EC Commission Directive 76/696 (OJ L236, 27.8.76, p 26); EC Commission Directive 82/622 (OJ L252, 27.8.82, p 2)), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post), the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) (see PARA 95 post), and the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARA 96 post).

10 le EC Council Directive 73/362 (OJ L335, 5.12.73, p 56) (amended by EC Council Directive 78/629 (OJ L206, 29.7.78, p 8); EC Commission Directive 85/146 (OJ L54, 23.2.85, p 29)), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post) and the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682 (as amended) (see PARA 78 post). See also note 40 infra.

11 le EC Council Directive 74/148 (OJ L84, 29.3.74, p 3), implemented by the Weights Regulations 1986, SI 1986/1683 (as amended) (see PARA 81 post) and the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post).

12 le EC Council Directive 75/33 (OJ L14, 20.1.75, p 1), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post) and the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (see PARA 9 post; and WATER AND WATERWAYS vol 100 (2009) PARAS 431-432). See also note 40 infra.

13 le EC Council Directive 75/106 (OJ L42, 15.2.75, p 1) (amended by EC Commission Directive 78/891 (OJ L311, 4.11.78, p 21); EC Council Directive 79/1005 (OJ L308, 4.12.79, p 25); EC Council Directive 85/10 (OJ L4, 5.1.85, p 20); EC Council Directive 88/316 (OJ L143, 10.6.88, p 26); EC Council Directive 89/676 (OJ L398, 30.12.89, p 18)), implemented by the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended) (see PARA 205 et seq post), the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) (see PARA 205 et seq post) and the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) (see PARA 160 et seq post).

14 le EC Council Directive 75/107 (OJ L42, 15.2.75, p 14), implemented by the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932 (as amended) (see PARA 91 post).

15 le EC Council Directive 75/324 (OJ L147, 9.6.75, p 40) (amended by EC Commission Directive 94/1 (OJ L23, 28.1.94, p 28)), implemented by the Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140 (as amended) (see PARA 189 post).

16 le EC Council Directive 75/410 (OJ L183, 14.7.75, p 25), implemented by the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended) (see PARA 87 post) and the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

17 le EC Council Directive 76/211 (OJ L46, 21.2.76, p 1) (amended by EC Commission Directive 78/891 (OJ L311, 4.11.78, p 21)), implemented by the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended) (see PARA 205 et seq post) and the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) (see PARA 205 et seq post).

18 le EC Council Directive 76/765 (OJ L262, 27.9.76, p 143) (amended by EC Commission Directive 82/624 (OJ L252, 27.8.82, p 8)), implemented by the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753 (as amended) (see PARA 82 post).

19 le EC Council Directive 76/766 (OJ L262, 27.9.76, p 149), implemented by the Alcohol Tables Regulations 1979, SI 1979/132 (see PARA 82 post).

20 le EC Council Directive 76/768 (OJ L262, 27.9.76, p 169) (as amended), implemented by the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884 (see PARAS 191, 202 post). See also SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARAS 393, 587.

21 le EC Council Directive 76/891 (OJ L336, 4.12.76, p 30) (amended by EC Commission Directive 82/621 (OJ L252, 27.8.82, p 1)), implemented by the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995, SI 1995/2607 (as amended) (see PARA 9 post; and FUEL AND ENERGY vol 19(2) (2007 Reissue) PARA 1191 et seq). See also note 40 infra.

22 le EC Council Directive 77/95 (OJ L26, 31.1.77, p 59), implemented by the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379 (as amended) (see PARA 98 post). See also note 40 infra.

23 le EC Council Directive 77/313 (OJ L105, 28.4.77, p 18) (amended by EC Commission Directive 82/625 (OJ L252, 27.8.82, p 10)), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

24 le EC Council Directive 78/1031 (OJ L364, 27.12.78, p 1), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

25 le EC Council Directive 79/830 (OJ L259, 15.10.79, p 1), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post). See also note 40 infra.

26 le EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (amended by EC Council Directive 85/1 (OJ L2, 3.1.85, p 11); EC Council Directive 89/617 (OJ L357, 7.12.89, p 28); EC Council Directive 99/103 (OJ L34, 9.2.2000, p 17)), implemented by the Units of Measurement Regulations 1986, SI 1986/1082 (as amended) (see PARA 47 post), the Weights and Measures (Metrication Amendments) Regulations 1994, SI 1994/1851 (as amended), the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, the Units of Measurement Regulations 1994, SI 1994/2867, and the Units of Measurement Regulations 1995, SI 1995/1804.

27 le EC Council Directive 80/232 (OJ L51, 25.2.80, p 1) (amended by EC Council Directive 87/356 (OJ L192, 11.7.87, p 48); EC Council Directive 86/96 (OJ L80, 25.3.86, p 55)), implemented by the Weights and Measures (Knitting Yarns) Order 1988, SI 1988/895 (see PARA 192 post).

28 le EC Council Directive 86/217 (OJ L152, 6.6.86, p 48), implemented by the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 post).

29 le EC Council Directive 88/344 (OJ L157, 24.6.88, p 28) (as amended): see FOOD vol 18(2) (Reissue) PARA 370.

30 le EC Council Directive 88/388 (OJ L184, 15.7.88, p 61) (as amended): see FOOD vol 18(2) (Reissue) PARA 369.

31 le EC Council Directive 89/107 (OJ L40, 11.2.89, p 27) (as amended): see FOOD vol 18(2) (Reissue) PARAS 366-368.

32 le EC Council Directive 89/108 (OJ L40, 11.2.89, p 34) (as amended): see FOOD vol 18(2) (Reissue) PARA 454. This Directive and EC Council Directive 2000/13 (OJ L109, 6.5.2000, p 29) (see note 38 infra) are implemented in part by the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended) (see PARAS 105, 127 et seq post), the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) (see PARAS 105, 156 et seq post) and the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended) (see PARAS 105, 133 et seq post).

33 le EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (amended by EC Council Directive 93/68 (OJ L220, 30.8.93, p 1)), implemented by the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARA 96 post).

34 le EC Council Regulation 1906/90 (OJ L173, 6.7.90, p 1) (as amended): see FOOD vol 18(2) (Reissue) PARAS 300, 438.

35 le EC Council Regulation 1907/90 (OJ L173, 6.7.90, p 5) (amended by EC Commission Regulation 1274/91 (OJ L121, 16.5.91, p 11); EC Council Regulation 2617/93 (OJ L240, 25.9.93, p 1); EC Council Regulation 3117/94 (OJ L330, 21.12.94, p 4); EC Council Regulation 818/96 (OJ L111, 4.5.96, p 1); EC Council Regulation 5/2001 (OJ L2, 5.1.2001, p 1); EC Council Regulation 2052/2003 (OJ L305, 22.11.2003, p 1)), implemented in part by the Eggs (Marketing Standards) Regulations 1995, SI 1995/1544 (as amended) (see PARAS 6, 141 post; and AGRICULTURAL PRODUCTION AND MARKETING vol 1 (2008) PARA 1121).

36 le EC Council Directive 93/42 (OJ L169, 12.7.93, p 1) (amended by EC Council Directive 98/79 (OJ L331, 7.12.98, p 1); EC Council Directive 2000/70 (OJ L313, 13.12.2000, p 22); EC Council Directive 2001/104 (OJ L6, 10.1.2002, p 50)). This Directive replaces, inter alia, EC Council Directive 76/764 (OJ L262, 27.9.76, p 139) (amended by EC Council Directive 83/128 (OJ L91, 9.4.83, p 29); EC Commission Directive 84/414 (OJ L228, 25.8.84, p 25)), which was implemented by the Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360 (as amended) (see PARA 88 post). See also the Medical Devices Regulations 2002, SI 2002/618 (as amended); and SALE OF GOODS AND SUPPLY OF SERVICES vol 41(2005 Reissue) PARAS 621-622.

37 le EC Council Regulation 2200/96 (OJ L297, 21.11.96, p 1) (as amended); FOOD vol 18(2) (Reissue) PARA 374.

38 le EC Council Directive 2000/13 (OJ L109, 6.5.2000, p 29) (amended by EC Commission Directive 2001/101 (OJ L310, 28.11.2001, p 19); and EC Council Directive 2003/89 (OJ L308, 25.11.2003, p 15)); see FOOD vol 18(2) (Reissue) PARA 373 et seq, 437. See also note 32 supra.

39 le EC Council Directive 2001/111 (OJ L10, 12.1.2002, p 53).

40 le EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1), which must be implemented by 30 October 2006. At the date at which this volume states the law, EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) had not been implemented in the United Kingdom.

With effect from 30 October 2006, this Directive repeals several earlier Directives, including: EC Council Directive 71/318 (OJ L202, 6.9.71, p 21) (as amended) (see note 4 supra); EC Council Directive 71/319 (OJ L202, 6.9.71, p 32) (see note 5 supra); EC Council Directive 71/348 (OJ L239, 25.10.71, p 9) (see note 7 supra); EC Council Directive 73/362 (OJ L335, 5.12.73, p 56) (as amended) (see note 10 supra); EC Council Directive 75/33 (OJ L14, 20.1.75, p 1) (see note 12 supra), as concerns the meters defined in EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) Annex MI-001; EC Council Directive 75/410 (OJ L183, 14.7.75, p 25) (see note 16 supra); EC Council Directive 76/891 (OJ L336, 4.12.76, p 30) (as amended) (see note 21 supra); EC Council Directive 77/95 (OJ L26, 31.1.77, p 59) (see note 22 supra); EC Council Directive 77/313 (OJ L105, 28.4.77, p 18) (as amended) (see note 23 supra); EC Council Directive 78/1031 (OJ L364, 27.12.78, p 1) (see note 24 supra); EC Council Directive 79/830 (OJ L259, 15.10.79, p 1) (see note 25 supra).

UPDATE

1-5 General purposes ... In general

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

5 In general

NOTE 2--Directive 71/316 replaced: European Parliament and EC Council Directive 2009/34 (OJ L106, 28.4.2009, p 7); references to the repealed directive should be construed as references to Directive 2009/34: art 20, Annex IV.

NOTES 13, 17--1985 Act Pt V and SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

TEXT AND NOTE 13--EC Council Directive 75/106 replaced: European Parliament and EC Council Directive 2007/45 (OJ L247, 21.9.2007, p 17), implemented by Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009, SI 2009/663.

NOTE 17--EC Council Directive 76/211 amended: European Parliament and EC Council Directive 2007/45 (OJ L247, 21.9.2007, p 17).

NOTE 26--Directive 80/181 further amended: European Parliament and EC Council Directive 2009/3 (OJ L114, 7.5.2009, p 10).

TEXT AND NOTE 27--EC Council Directive 80/232 replaced: European Parliament and EC Council Directive 2007/45 (OJ L247, 21.9.2007, p 17), implemented by Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009, SI 2009/663.

TEXT AND NOTE 33--Directive 90/384 replaced: European Parliament and EC Council Directive 2009/23 (OJ L122, 15.5.2009, p 6); references to the repealed directive should be construed as references to Directive 2009/23: art 17, Annex VIII.

TEXT AND NOTE 35--EC Council Regulation 1907/90 replaced by EC Council Regulation 1028/2006 (OJ L186 7.7.2006 p 1) on marketing standards for eggs. For detailed rules implementing Regulation 1028/2006, see EC Commission Regulation 557/2007 (OJ

L132, 24.5.2007, p 5) (as amended). SI 1995/1544 replaced, in relation to England, by the Eggs and Chicks (England) Regulations 2009, SI 2009/2163, and in relation to Wales by the Eggs and Chicks (Wales) Regulations 2009, SI 2009/793.

NOTE 36--EC Council Directive 93/42 further amended: European Parliament and EC Council Directive 2007/47 (OJ L247, 21.9.2007, p 21).

NOTE 38--EC Council Directive 2000/13 further amended: EC Commission Directive 2006/142 (OJ L368, 23.12.2006, p 110); EC Council Directive 2006/107 (OJ L363, 20.12.2006, p 411); EC Commission Directive 2007/68 (OJ L310, 28.11.2007, p 11); European Parliament and EC Council Regulation 1332/2008 (OJ L354, 31.12.2008 p 7); European Parliament and EC Council Regulation 1334/2008 (OJ L354, 31.12.2008 p 34); European Parliament and EC Council Regulation 596/2009 (OJ L188, 18.7.2009 p 14).

NOTE 40--EC Council Directive 2004/22 implemented by Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006, SI 2006/1255; Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006, SI 2006/1256 (amended by SI 2006/2625); Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257 (amended by SI 2006/2625); Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006, SI 2006/1258; Measuring Instruments (Beltweighers) Regulations 2006, SI 2006/1259; Measuring Instruments (Capacity Serving Measures) Regulations 2006, SI 2006/1264; Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006, SI 2006/1266; Measuring Instruments (Material Measures of Length) Regulations 2006, SI 2006/1267; Measuring Instruments (Cold-water Meters) Regulations 2006, SI 2006/1268 (amended by SI 2006/2625); Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006, SI 2006/1269; Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); Measuring Instruments (Active Electrical Energy Meters) Regulations 2006, SI 2006/1679; Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164; Measuring Instruments (Taximeters) Regulations 2006, SI 2006/2304; and Measuring Instruments (Gas Meters) Regulations 2006, SI 2006/2647.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/6. Agricultural and horticultural products.

(3) COGNATE LAW

6. Agricultural and horticultural products.

Legislation in other fields may have some relevance in relation to weights and measures, although it is mainly dealt with elsewhere in this work.

Thus, for example, salesmen selling on commission horticultural products, including vegetables and fruit, may be required to furnish particulars relating to the goods sold, including the number, weight or quantity¹.

The sale of eggs is also regulated².

¹ See the Horticultural Produce (Sales on Commission) Act 1926; and AGRICULTURAL PRODUCTION AND MARKETING vol 1 (2008) PARAS 1144-1146.

² See the Eggs (Marketing Standards) Regulations 1995, SI 1995/1544 (as amended); para 141 post; and AGRICULTURAL PRODUCTION AND MARKETING vol 1 (2008) PARA 1121. See also PARA 5 ante.

UPDATE

6 Agricultural and horticultural products

NOTE 2--SI 1995/1544 replaced, in relation to England, by the Eggs and Chicks (England) Regulations 2009, SI 2009/2163, and in relation to Wales, by the Eggs and Chicks (Wales) Regulations 2009, SI 2009/793.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/7. Aircraft, ships and road vehicles.

7. Aircraft, ships and road vehicles.

Where a certificate of airworthiness is in force in respect of a flying machine or glider, that aircraft must be weighed, and the position of its centre of gravity determined, at such times and in such manner as the Civil Aviation Authority may require or approve in the case of that aircraft¹. Upon the aircraft being so weighed, the operator of the aircraft must prepare a weight schedule showing either the basic weight² of the aircraft or such other weight as may be approved by the Authority in the case of that aircraft and either the position of the aircraft's centre of gravity when the aircraft contains only the items included in the basic weight or such other position of the centre of gravity as may be approved by the Authority in the case of that aircraft³.

The tonnage of any ship to be registered must be ascertained in accordance with the tonnage regulations⁴; and, when the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations, that tonnage is treated as the tonnage of the ship, except so far as registration regulations provide, in specified circumstances, for the ship to be remeasured⁵. No ship, other than a ship of war, a ship solely engaged in fishing, a pleasure yacht or an exempted ship, may proceed or attempt to proceed to sea unless it complies with the load line rules⁶.

Vehicles, other than agricultural motor vehicles which are either track-laying vehicles not exceeding 3,050 kilograms in unladen weight or wheeled vehicles, which are: (1) locomotives, motor tractors or certain types of bus; or (2) certain types of unbraked wheeled trailers, must have plainly marked in a conspicuous place on the outside of the vehicle, on its near side:

- 40 (a) if it is a vehicle falling within head (1) above, its unladen weight; and
- 41 (b) if it is a vehicle falling within head (2) above, its maximum gross weight⁷.

The maximum weights of trailers and the maximum laden weights of public service vehicles and certain other road vehicles and trailers are prescribed by regulations⁸.

1 See the Air Navigation Order 2000, SI 2000/1562, art 18(1); and AIR LAW vol 2 (2008) PARA 414.

2 For these purposes, 'basic weight' means the weight of the aircraft empty together with the weight of unusable fuel and unusable oil in the aircraft and of such items of equipment as are included in the weight schedule: *ibid* art 18(2)(a).

3 See *ibid* art 18(2); and AIR LAW vol 2 (2008) PARA 414. The weight schedule must in general be preserved by the operator of the aircraft until the expiration of a period of six months following the next occasion on which the aircraft is so weighed: see art 18(3); and AIR LAW vol 2 (2008) PARA 479. See also art 80; and AIR LAW vol 2 (2008) PARA 477.

4 See the Merchant Shipping Act 1995 s 19; and SHIPPING AND MARITIME LAW vol 93 (2008) PARA 248. As to the tonnage of ships of foreign countries adopting the tonnage regulations see SHIPPING AND MARITIME LAW vol 93 (2008) PARA 250. As to the weighing of goods and other cargo see the Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988, SI 1988/1275 (as amended); the Merchant Shipping (Weighing of Goods Vehicles and other Cargo) (Application to non-UK Ships) Regulations 1989, SI 1989/568; and SHIPPING AND MARITIME LAW vol 94 (2008) PARA 644.

5 See the Merchant Shipping Act 1995 s 11; and SHIPPING AND MARITIME LAW vol 93 (2008) PARA 249.

6 See the Merchant Shipping (Load Line) Regulations 1998, SI 1998/2241 (as amended); and SHIPPING AND MARITIME LAW vol 94 (2008) PARA 671 et seq.

7 See the Road Vehicles (Construction and Use) Regulations 1986, SI 1986/1078, reg 71(1), (2) (as amended); and ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 371.

8 See the Road Vehicles (Construction and Use) Regulations 1986, SI 1986/1078, regs 75-80 (as amended); and ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 584 et seq. As to the weighing of goods vehicles and other cargo prior to loading onto eg ferries, and as to the appropriate equipment for such use, see the Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988, SI 1988/1275 (as amended); and SHIPPING AND MARITIME LAW vol 94 (2008) PARA 644.

UPDATE

7 Aircraft, ships and road vehicles

NOTES--Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

NOTE 1--SI 2000/1562 art 18(1) now Air Navigation Order 2005, SI 2005/1970, art 23(1).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/8. Coinage; gold and silver standards.

8. Coinage; gold and silver standards.

The weight and fineness of coins are specified by statute¹. The Secretary of State² has duties with regard to the manufacture and verification of standard trial plates of gold, silver, cupro-nickel and other metal or mixtures of metal and copies of coinage standards³.

The standards and marking of gold and silver ware and the permissible proportions by weight of fine metal contained in it have been defined by statute⁴.

1 See the Coinage Act 1971 s 1 (as substituted); and FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARA 1284.

2 As to the Secretary of State see PARA 16 post.

3 See the Coinage Act 1971 ss 6, 7 (s 6 as amended); and FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARA 1286. As to coinage standards see PARA 61 post; and as to coinage generally see FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARA 1279 et seq.

4 See the Hallmarking Act 1973; and TRADE MARKS AND TRADE NAMES vol 48 (2007 Reissue) PARA 464 et seq.

UPDATE

8 Coinage; gold and silver standards

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/9. Electricity, gas and water.

9. Electricity, gas and water.

Statutory provision has been made for the certification, inspection and testing of electricity meters¹, gas meters² and water meters³.

1 See the Electricity Act 1989 ss 30, 31, Sch 7 (as amended); the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995, SI 1995/2607 (as amended); the Meters (Approval of Pattern or Construction and Manner of Installation) Regulations 1998, SI 1998/1565 (as amended); the Meters (Certification) Regulations 1998, SI 1998/1566 (as amended); and FUEL AND ENERGY vol 19(2) (2007 Reissue) PARA 1180 et seq. As to units of measurement of electricity see PARA 45 post.

2 See the Gas Act 1986 s 17 (as substituted and amended); the Gas (Meters) Regulations 1983, SI 1983/684 (as amended); the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988, SI 1988/296 (as amended); and FUEL AND ENERGY vol 19(2) (2007 Reissue) PARA 947 et seq.

3 See the Water Industry Act 1991 ss 148, 149 (as amended); the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (as amended); the Water (Meters) Regulations 1988, SI 1988/1048 (as amended); and WATER AND WATERWAYS vol 100 (2009) PARA 435 et seq. The Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (as amended) apply to cold-water meters installed on or after 1 August 1988 (where they are installed compulsorily by or at the behest of the supplier of the water) and on or after 1 April 1989 (in other cases) for use for trade in the measuring of any supply of water to domestic premises in England and Wales: reg 3(1) (substituted by SI 2001/1229). The regulations make provision for: (1) the installation of appropriate meters (see the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997, reg 4); (2) the principles of construction of and marking of meters (see reg 5); (3) the testing of meters (see regs 6, 7 (amended by SI 2001/1229)); (4) cold-water meters imported from another EC member state or EEA state (see the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997, reg 7A (added by SI 2001/1229; and amended by SI 2003/214)); and (5) passing as fit for trade, stamping, prescribed limits of error and obliteration of stamps and manufacturer's marks (see the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997, regs 8-11 (amended by SI 2001/1229)). Such cold-water meters are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 post): Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997, reg 3(1) (as so substituted). For the meaning of 'use for trade' see PARA 66 post.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

9 Electricity, gas and water

TEXT AND NOTES--See also Measuring Instruments (Cold-water Meters) Regulations 2006, SI 2006/1268 (amended by SI 2006/2625), the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006, SI 2006/1679, and the Measuring Instruments (Gas Meters) Regulations 2006, SI 2006/2647.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/10. Customs and excise.

10. Customs and excise.

Apart from the penalties which may be imposed under the Weights and Measures Act 1985 for the possession and use of false or unjust weighing or measuring equipment¹, penalties may be imposed on any person required by or under the Customs and Excise Acts to provide scales for any purpose of those Acts who provides, uses or permits to be used any false or unjust scales for specified related offences².

1 See the Weights and Measures Act 1985 s 17; and PARA 99 post.

2 See the Customs and Excise Management Act 1979 s 169 (as amended).

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/11. Fishing.

11. Fishing.

No person may:

- 42 (1) land in England and Wales¹ any sea fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea fish²;
- 43 (2) in England and Wales sell, expose or offer for sale or have in his possession for the purpose of sale, any sea fish of any description, being a fish of a smaller size than such as may be prescribed³;
- 44 (3) in England and Wales have in his possession⁴ any fish which is prohibited⁵ from being sold in England and Wales⁶.

1 'England' means, subject to any alteration of boundaries of local government areas, the area consisting of the counties established by the Local Government Act 1972 s 1 (see LOCAL GOVERNMENT vol 69 (2009) PARAS 5, 24), Greater London and the Isles of Scilly: Interpretation Act 1978 s 5, Sch 1. 'Wales' means the combined area of the counties which were created by the Local Government Act 1972 s 20 (as originally enacted) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 5, 37), but subject to any alteration made under s 73 (as amended) (consequential alteration of boundary following alteration of watercourse) (see LOCAL GOVERNMENT vol 69 (2009) PARA 90): Interpretation Act 1978 Sch 1 (definition substituted by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 9). As to local government areas see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq; and as to boundary changes see LOCAL GOVERNMENT vol 69 (2009) PARA 56 et seq. As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29.

2 See the Sea Fish (Conservation) Act 1967 s 1(1) (substituted by the Fisheries Act 1981 s 19(1); and amended by the Scotland Act 1988 (Consequential Modifications) (No 2) Order 1999, SI 1999/1820, art 4, Sch 2 Pt I para 43(1), (2)(a)); the Undersized Velvet Crabs Order 1989, SI 1989/919; the Undersized Bass Order 1989, SI 1989/1285; the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000, SI 2000/1081; the Undersized Spider Crabs Order 2000, SI 2000/1502; the Undersized Lobsters Order 2000, SI 2000/1503; the Undersized Edible Crabs Order 2000, SI 2000/2029; the Sea Fishing (Enforcement of Community Conservation Measures) (Wales) Order 2000, SI 2000/2230; the Undersized Spider Crabs (Wales) Order 2002, SI 2002/1897; the Scallop Fishing Order 2004, SI 2004/12; and AGRICULTURE AND FISHERIES vol 1(2) (2007 Reissue) PARA 988.

3 See the Sea Fish (Conservation) Act 1967 s 1(2) (substituted by the Fisheries Act 1981 s 19(1); and amended by the Scotland Act 1988 (Consequential Modifications) (No 2) Order 1999, SI 1999/1820, art 4, Sch 2 Pt I para 43(1), (2)(a)); and AGRICULTURE AND FISHERIES vol 1(2) (2007 Reissue) PARA 988.

4 Is subject to any exemption granted under the Sea Fish (Conservation) Act 1967 s 2(3): see AGRICULTURE AND FISHERIES vol 1(2) (2007 Reissue) PARA 988.

5 Is under ibid s 1(2) (as substituted and amended) (see the text and note 3 supra).

6 See ibid s 2 (amended by the Fisheries Act 1981 ss 19(2)(a), 46(6); and the Scotland Act 1988 (Consequential Modifications) (No 2) Order 1999, SI 1999/1820, Sch 2 Pt I para 43(1), (2)(a)); and AGRICULTURE AND FISHERIES vol 1(2) (2007 Reissue) PARA 988.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

11 Fishing

NOTES--Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

NOTES 2, 3--Sea Fish (Conservation) Act 1967 s 1 further amended: Marine and Coastal Access Act 2009 s 194.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/12. Food and drink.

12. Food and drink.

The sale of food¹ and food safety are regulated by the Food Safety Act 1990 and by regulations made thereunder².

The Weights and Measures Act 1985 requires the sale of certain articles of food to be by weight or other measured quantity³.

With a view to the protection of the revenue the Commissioners of Customs and Excise may make regulations regulating the keeping of spirits, beer, wine, made-wine or cider by wholesalers and retailers⁴.

All tuns, pipes, tertians, hogsheads and other vessels of wine, oil, honey, and other gaugeable liquors imported or brought into the port of the City of London and landed within the City and

its liberties are subject and liable to be gauged by the Lord Mayor by virtue of his office of gauger, or by his sufficient deputies lawfully appointed⁵.

1 For the purposes of the Food Safety Act 1990, 'food' has the same meaning as in EC Council Regulation 178/2002 (OJ L31, 1.2.2002, p 1) (see art 2): see the Food Safety Act 1990 s 1(1) (substituted by the Food Safety Act 1990 (Amendment) Regulations 2004, SI 2004/2990, regs 2, 3); and FOOD vol 18(2) (Reissue) PARA 201.

2 See FOOD vol 18(2) (Reissue) PARA 201 et seq.

3 See PARA 103 et seq post.

4 See the Alcoholic Liquor Duties Act 1979 s 67(1). As to the Commissioners of Customs and Excise see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) PARA 900 et seq.

5 See the Weights and Measures Act 1824 s 25 (amended by the Statute Law Revision (No 2) Act 1888). This right is preserved by the Weights and Measures Act 1985 s 90(1). Further, a person using weighing or measuring equipment within the City of London is not required to have that equipment passed or stamped by more than one authority: s 90(2). As to the City of London and the Lord Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 31, 40, 44 et seq. The Common Council of the City of London is a local weights and measures authority: see s 69(1)(b); and PARA 20 head (2) post.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/13. Markets and fairs.

13. Markets and fairs.

In markets and fairs to which the provisions of the Markets and Fairs Clauses Act 1847 relating to the weighing of goods and carts¹ are applicable², obligations are placed on authorities responsible for them to provide apparatus and facilities for the weighing of goods sold and the vehicles in which they are brought³. In general, market authorities have to provide facilities for the weighing of cattle and other animals brought for sale⁴.

1 I.e. the Markets and Fairs Clauses Act 1847 ss 21, 22, 24 (s 22 as amended): see MARKETS, FAIRS AND STREET TRADING vol 29(2) (Reissue) PARA 1098.

2 As to the incorporation of provisions of the Markets and Fairs Clauses Act 1847 into local Acts see MARKETS, FAIRS AND STREET TRADING vol 29(2) (Reissue) PARA 1011.

3 See ibid ss 21, 22, 24 (s 22 as amended); and MARKETS, FAIRS AND STREET TRADING vol 29(2) (Reissue) PARA 1098.

4 As to such weighing see MARKETS, FAIRS AND STREET TRADING vol 29(2) (Reissue) PARA 1103 et seq.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/14. Prices.

14. Prices.

The Secretary of State¹ may by order make provision for securing that prices are indicated on or in relation to goods which a person indicates are or may be for sale by retail, whether or not the goods are in existence when he does so, and that prices of such goods are not indicated in a manner which he considers inappropriate².

1 As to the Secretary of State see PARA 16 post.

2 See the Prices Act 1974 s 4 (as amended); the Indication of Prices (Beds) Order 1978, SI 1978/1716 (as amended); the Price Marking (Food and Drink Services) Order 2003, SI 2003/2253; the Price Marking Order 2004, SI 2004/102; and SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 681 et seq. As to unit pricing see PARA 119 post. See also PARAS 126, 159 post.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

14 Prices

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733. Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/1. LEGISLATION/(3) COGNATE LAW/15. Trade descriptions.

15. Trade descriptions.

Any person who, in the course of a trade or business, applies a false trade description¹ to any goods, or supplies or offers to supply any goods to which a false trade description has been applied, is guilty of an offence².

1 For these purposes, a trade description is an indication, direct or indirect, and by whatever means given of (inter alia) quantity, size or gauge with respect to any goods or parts of goods: see the Trade Descriptions Act 1968 s 2(1)(a); and SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 481.

2 See *ibid* s 1(1); and SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 475. The offence is one of strict liability: see *Alec Norman Garages Ltd v Phillips* [1985] RTR 164, (1984) 148 JP 741. As to the offence, defences, and penalties see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 475 et seq.

UPDATE

9-15 Electricity, gas and water ... Trade descriptions

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

15 Trade descriptions

TEXT AND NOTES--Repealed. Provision for made for the prohibition of unfair commercial practices by the Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277; see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 725A.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(1) IN GENERAL/16. Functions of the Secretary of State.

2. ADMINISTRATION

(1) IN GENERAL

16. Functions of the Secretary of State.

The Secretary of State¹ is required to maintain certain standards of measures of length, weight and capacity² and is empowered to approve or require the maintenance of local standards by local authorities and to certify standards³. He also has general powers to test articles used or proposed to be used as standards and any weighing or measuring equipment⁴.

The Secretary of State has general oversight of the arrangements of local authorities for administering the legislation relating to weights and measures⁵; and he must provide for holding examinations for the qualification of persons to act as inspectors and the issue of certificates of qualification⁶. In addition, he has various powers to make regulations and orders in relation to weights, measures and the administration of the legislation⁷; and he has power to determine questions as to the accuracy of weighing or measuring equipment in connection with certain offences⁸.

The Secretary of State may issue codes of practice in relation to the testing of packages⁹; and he has general duties to keep the operation of the provisions relating to packaged goods¹⁰ under review, to make available such information as to packages as he thinks fit, to give advice to local weights and measures authorities, to collaborate with any authority outside Great Britain¹¹, and to make and maintain records of the names and addresses of packers, importers and manufacturers of measuring container bottles¹².

The Secretary of State must from time to time, and in any event not less than once in every five years, lay before each House of Parliament a report on the exercise of his functions under the Weights and Measures Act 1985, other than the provisions relating to packaged goods¹³.

1 In any enactment, 'Secretary of State' means one of Her Majesty's principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. As to the office of Secretary of State generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 355. In this title, unless the context otherwise requires, the Secretary of State referred to is generally the Secretary of State for Trade and Industry: see the Transfer of Functions (Trade and Industry) Order 1983, SI 1983/1127. As to the Secretary of State for Trade and Industry see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 506.

2 See the Weights and Measures Act 1985 ss 2, 3 (as amended); and PARAS 58-63 post.

3 See *ibid* s 4; and PARAS 62-63 post.

4 See *ibid* s 6(1)(b); and PARA 65 post.

5 See *ibid* s 71; and PARA 22 post.

6 See *ibid* s 73; and PARA 24 post.

7 See *ibid* s 5(9) (cited in PARA 64 post), s 8(6) (cited in PARA 46 post), s 9(1), (2) (cited in PARA 57 post), s 10(3), (5) (cited in PARA 48 post), s 11(16) (cited in PARA 69 post), s 14(1) (as amended) (cited in PARA 76 post), s 15(1) (cited in PARA 67 post), s 22(1) (cited in PARA 105 post), s 23(1) (cited in PARA 106 post), s 24(1) (cited in PARA 107 post), s 45(2) (cited in PARA 115 post), s 47(3) (cited in PARA 209 post), s 54(6) (cited in PARA 212 post), and s 69(4) (cited in PARA 20 post). As to the making of orders and regulations see PARA 3 ante.

8 See *ibid* s 85; and PARA 228 post.

9 See *ibid* s 47(3); and PARA 209 post.

10 *Ibid* Pt V (ss 47-68) (as amended): see PARA 205 et seq post.

11 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706 preamble art I; Interpretation Act 1978 s 22(1), Sch 2 para 5(a). See further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3. For the meanings of 'England' and 'Wales' see PARA 11 note 1 ante.

12 See the Weights and Measures Act 1985 s 56(1), (2) (as amended); and PARA 221 post.

13 *Ibid* s 87.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

16 Functions of the Secretary of State

NOTE 7--1985 Act ss 47, 54 repealed: SI 2006/659.

TEXT AND NOTES 9-12--1985 Act (ss 47-68) repealed: SI 2006/659.

TEXT AND NOTE 13--Words 'other ... goods' omitted: 1985 Act s 87 (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(1) IN GENERAL/17. National Weights and Measures Laboratory, etc.

17. National Weights and Measures Laboratory, etc.

The responsibilities of the Secretary of State¹ in relation to standards, national and EC pattern approval², regulations on weighing and measuring equipment³, advice to local weights and measures authorities⁴, and the inspection of local weights and measures arrangements⁵, are discharged by the National Weights and Measures Laboratory ('NWML') which is an executive agency of the Department of Trade and Industry⁶ and deals with the technical aspects of weights and measures legislation⁷, the interest of the United Kingdom in legal metrology at an international level, and the provision of technical services (such as type approval, testing and calibration) to industry and local authorities.

Responsibilities as to the sale of goods by quantity are discharged by the Consumer and Competition Policy Directorate ('CCP'), at the Department of Trade and Industry⁸.

1 As to the Secretary of State see PARA 16 ante.

2 See the Weights and Measures Act 1985 s 2 (cited in PARAS 58-60 post), s 3 (as amended) (cited in PARA 61 post), s 4 (cited in PARAS 62, 63 post), s 5 (as amended) (cited in PARA 64 post), s 6 (cited in PARA 65 post), s 8 (as amended) (cited in PARA 46 post) and s 9 (cited in PARA 57 post).

3 See *ibid* s 15; and PARA 67 post.

4 See *ibid* s 56(1) (as amended); and PARA 221 post.

5 See *ibid* s 71; and PARA 22 post.

6 Executive agencies are more or less autonomous units, operating within a framework document and business plan. Key performance targets are set annually by the appropriate minister and are announced to Parliament. Each executive agency has a chief executive, directly accountable to the minister. See CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 551.

7 While the NWML has primary responsibility for technical aspects of the legislation, the Department of Trade and Industry retains overall policy responsibility, as well as specific responsibility for sale of goods by quantity.

8 See CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 508.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(1) IN GENERAL/18. Local Authorities' Co-ordinators of Regulatory Services.

18. Local Authorities' Co-ordinators of Regulatory Services.

The National Metrological Co-ordinating Unit which was established¹ to co-ordinate the provisions relating to packaged goods² was abolished on 1 January 1988³ and its functions were transferred to the Secretary of State⁴. In practice, such co-ordination as remained necessary was handled by the Local Authorities Co-ordinating Body on Food and Trading Standards ('LACOTS') under a Memorandum of Understanding between LACOTS and the Secretary of

State. In 2002, LACOTS became the Local Authorities' Co-ordinators of Regulatory Services ('LACORS').

1 le under the Weights and Measures Act 1985 s 55 (as originally enacted).

2 le ibid Pt V (ss 47-68) (as amended).

3 National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, arts 1(2), 2(c).

4 See ibid arts 1(2), 2(a),(b), Schedule. The Secretary of State might by order: (1) transfer any functions of the Unit to himself; (2) establish a body and transfer to it any function of the Unit and any function transferred by virtue of head (1) supra: Weights and Measures Act 1985 s 62(2) (amended by the Statute Law (Repeals) Act 2004 s 1(1), Sch 1 Pt 5). As to the Secretary of State see PARA 16 ante.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(1) IN GENERAL/19. International bodies.

19. International bodies.

L'Organisation Internationale de Métrologie Légale ('OIML')¹ is a worldwide inter-governmental organisation which harmonises the metrological controls applied by national metrological services, or related organisations, of its member states. The recommendations of the OIML² are usually adopted³, in whole or in part, in relation to pattern approval⁴ and regulations on the control of individual classes of weighing and measuring equipment⁵.

The Western European Legal Metrology Co-operation ('WELMEC') was established in 1990. In 1995 the decision was made to accept associate members from central and eastern Europe and the name was changed to European Co-operation in Legal Metrology, although the use of the acronym WELMEC has been retained⁶. WELMEC members have signed a recognition agreement which states that certain National Type Approvals will be granted on the basis of conformity with an appropriate OIML recommendation, with little or no further examination, where an instrument has already been granted approval in another signatory country.

1 The address of L'Organisation Internationale de Métrologie Légale is 11 Rue Turgot, Paris, 75009, France.

2 See eg 'Non-automatic weighing instruments Part 1: Metrological and technical requirements-Tests' OIML R 76-1 Edition 1992 (E).

3 See eg EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) on non-automatic weighing instruments (as amended), implemented by the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236; and PARAS 5 ante, 96 post. There is a distinction between adoption as the basis of a 'harmonised standard' (eg EC Council Directive 90/384 (OJ L189, 20.7.90, p 1), where the standard is based on OIML R 76) and adoption by way of national legislation (eg the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761 (see PARA 83 post), which directly implemented OIML R 51 in the United Kingdom).

4 See the Weights and Measures Act 1985 s 12; the Measuring Instruments (EEC) Requirements Regulations 1988, SI 1988/186 (as amended); the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 10; and PARAS 73, 75, 96 post.

5 See the Weights and Measures Act 1985 s 15; and PARA 67 post.

6 The address of WELMEC in the United Kingdom is 10 Albert Embankment, London SE1 7SP.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 3--Directive 90/384 replaced: European Parliament and EC Council Directive 2009/23 (OJ L122, 15.5.2009, p 6); references to the repealed directive should be construed as references to Directive 2009/23: art 17, Annex VIII.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/(i) Authorities/20. Local weights and measures authorities.

(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS

(i) Authorities

20. Local weights and measures authorities.

In England the local weights and measures authority is: (1) for each non-metropolitan county, metropolitan district and London borough, the council of that county, district or borough; (2) for the City of London and the Inner and Middle Temples, the Common Council of the City of London; and (3) for the Isles of Scilly, the Council of the Isles of Scilly¹. In Wales the local weights and measures authority for each county is the county council and for each county borough is the county borough council².

Where, following the recommendations of the Electoral Commission³, the Secretary of State makes an order for structural or boundary change, so that two tiers of government are replaced with one⁴, the functions of the council are transferred to the unitary authority so created⁵.

After consultation with any local weights and measures authority appearing to him to be concerned, the Secretary of State may by order provide that the area of any local weights and measures authority specified in the order shall, for the purposes of its functions as such an authority, be deemed to include such area consisting of inland waters or of territorial waters of the United Kingdom⁶ adjacent to any part of Great Britain as may be so specified, being an area which would otherwise not fall within the area of any local weights and measures authority⁷.

Each local weights and measures authority:

- 45 (a) must maintain local standards⁸;
- 46 (b) must provide, and maintain or from time to time replace, working standards and testing and stamping equipment⁹;

- 47 (c) may provide and maintain within its area for use by the public such weighing or measuring equipment as appears to it to be expedient¹⁰;
- 48 (d) may make arrangements which include the provision of a service for the adjustment of weights and measures but not of other weighing or measuring equipment¹¹.

Local weights and measures authorities may combine generally or for specific purposes, or for the provision of services by another authority¹².

A local weights and measures authority may make, or assist in the making of, arrangements to provide advice to or for the benefit of consumers of goods and services within the area of the authority¹³.

1 Weights and Measures Act 1985 s 69(1). In any Act passed before 31 July 1963 (ie the date on which the Weights and Measures Act 1963 was passed) any reference to local authorities for the purposes of the Weights and Measures Acts 1878 to 1936 is to continue to be construed as a reference to local weights and measures authorities: Weights and Measures Act 1985 s 96(1), Sch 11 para 5(a). As to local government areas and authorities see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq; LONDON GOVERNMENT.

The repeal by the Weights and Measures Act 1985 of the Weights and Measures Act 1963 s 37 and of the provisions enabling an agreement thereunder to relate to functions of a local weights and measures authority under the Trade Descriptions Act 1968 (see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 471 et seq), the Agriculture Act 1970 s 25 (repealed) and the Fair Trading Act 1973 Pt II (ss 13-33) (as amended) does not affect any agreement which: (1) was made under the Weights and Measures Act 1963 s 37 (repealed) before 1 April 1974 by two or more local weights and measures authorities for areas within Greater London; and (2) was in force immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985): Sch 11 para 18(1), (2). The parties to such an agreement must cause notice in writing to be given to the Secretary of State of any variation from time to time made in the agreement and, if the agreement ceases to have effect, of its cessation: Sch 11 para 18(3). Where such an agreement has effect in relation to functions of a local weights and measures authority under s 4 (local standards: see PARA 62 post), s 5 (as amended) (working standards and testing and stamping equipment: see PARA 64 post) or s 72 (appointment of inspectors: see PARA 23 post), any reference therein to a local weights and measures authority is to be construed subject to the terms of the agreement: Sch 11 para 18(4). Where two or more local weights and measures authorities are parties to such an agreement and the agreement relates to all their functions under the Weights and Measures Act 1985 and to any functions specified in a notice given to them under s 70(1)(b) (see PARA 21 head (2) post) and not withdrawn, those authorities may make a joint report to the Secretary of State under s 70(1) (see PARA 21 post) in respect of any financial year during the whole of which the agreement was in operation: Sch 11 para 18(5). The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

The Local Government Act 1974 s 35(3) (power of Secretary of State to remove or relax control on functions of local authorities: see LOCAL GOVERNMENT vol 69 (2009) PARA 618) continues to apply to any such control as is mentioned therein which was conferred on the Board of Trade (subsequently becoming exercisable by the Secretary of State) by any enactment contained in the Weights and Measures Act 1963 and re-enacted in the Weights and Measures Act 1985: Sch 11 para 19. As to the Secretary of State see PARA 16 ante.

2 Ibid s 69(2) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 75).

3 Ie under the Local Government Act 1992 ss 14-16 (as amended): see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 92.

4 Ie under ibid s 17 (as amended): see ELECTIONS AND REFERENDUMS. As to the Secretary of State's power to establish joint authorities see s 21 (as amended).

5 See eg the Hampshire (Cities of Portsmouth and Southampton) (Structural Change) Order 1995, SI 1995/1775, art 3. It is open to an authority to change its name from that given under a structural change order by means of a resolution under the Local Government Act 1972 s 74 (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARAS 26, 39.

6 As to the extent of the territorial waters (or sea) of the United Kingdom see the Territorial Sea Act 1987 s 1; and INTERNATIONAL RELATIONS LAW vol 61 (2010) PARA 123 et seq; WATER AND WATERWAYS vol 100 (2009) PARA 31. 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. Neither the Channel Islands nor the Isle of Man are within the United Kingdom. For the meaning of 'Great Britain' see PARA 16 note 11 ante. See further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3.

- 7 Weights and Measures Act 1985 s 69(4). Such orders, being local in nature, are not recorded in this work.
- 8 See the Weights and Measures Act 1985 s 4; and PARAS 62-63 post.
- 9 See *ibid* s 5 (as amended); and PARA 64 post.
- 10 See *ibid* s 19; and PARA 101 post.
- 11 See *ibid* s 74 (as amended); and PARA 29 post.
- 12 See eg the Local Authorities (Goods and Services) Act 1970; the Local Government Act 1972 s 101 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 370 et seq, 495.
- 13 Weights and Measures Act 1985 s 69(5).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

20 Local weights and measures authorities

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733. Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions), see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/(i) Authorities/21. Annual reports by local weights and measures authorities.

21. Annual reports by local weights and measures authorities.

Each local weights and measures authority¹ must, in respect of each financial year of the authority, make to the Secretary of State² by such date as he may direct a report on the operation during that year of the arrangements made to give effect in that authority's area: (1) to the purposes of the Weights and Measures Act 1985; and (2) to functions relating to weights and measures which are conferred on the authority otherwise than by or under the Weights and Measures Act 1985 and which are specified, in a notice in writing given to the authority by the Secretary of State and not withdrawn, as functions to which these provisions apply³.

Any such report must be in such form and contain such particulars of such matters as the Secretary of State may direct⁴; and any report made to the Secretary of State under the above provisions may be published by the local weights and measures authority by which it is made⁵.

The Secretary of State may include the whole or any part of, or any information contained in, any such report, whether published or not, in any statement which may be made or published by the Secretary of State, with respect to such arrangements as are mentioned above either generally or in any particular area⁶.

- 1 For the meaning of 'local weights and measures authority' see PARA 20 ante.
- 2 As to the Secretary of State see PARA 16 ante.
- 3 Weights and Measures Act 1985 s 70(1). As to the circumstances in which a joint report may be made see PARA 20 note 1 ante; and as to the Secretary of State's power to inspect local weights and measures arrangements see PARA 22 post.
- 4 Ibid s 70(2).
- 5 Ibid s 70(3).
- 6 Ibid s 70(4).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/(i) Authorities/22. Inspection of local weights and measures arrangements.

22. Inspection of local weights and measures arrangements.

The Secretary of State¹ may from time to time cause an inspection to be made of, or of any part of, any arrangements² in respect of a local weights and measures authority's³ area⁴.

Any such inspection must be carried out by an officer of the Secretary of State authorised in that behalf by the Secretary of State⁵. The officer may:

- 49 (1) examine any equipment or records kept in connection with those arrangements⁶;
- 50 (2) require any inspector⁷ having duties under those arrangements to give such assistance and information as the officer may reasonably specify⁸; and
- 51 (3) make reasonable inquiries of any person⁹ who appears to the officer likely to be able to give him information concerning the operation of those arrangements¹⁰.

The officer by whom any such inspection is made must report its results in writing to the Secretary of State¹¹.

The Secretary of State must send a copy of the report to any local weights and measures authority concerned and to any chief inspector¹² responsible for the operation of all or any of the arrangements inspected¹³.

The Secretary of State may, if he thinks fit, publish any such report in whole or in part¹⁴.

- 1 As to the Secretary of State see PARA 16 ante.
- 2 Ie any such arrangements as are mentioned in the Weights and Measures Act 1985 s 70: see PARA 21 ante.

3 For the meaning of 'local weights and measures authority' see PARA 20 ante.

4 Weights and Measures Act 1985 s 71(1).

5 Ibid s 71(2).

6 Ibid s 71(3)(a).

7 'Inspector' means an inspector of weights and measures appointed under ibid s 72(1) (see PARA 23 post); s 94(1). As to inspectors of weights and measures see PARA 23 post; as to inspectors' powers of entry see PARA 27 post; and as to obstruction and failure to assist inspectors see PARA 35 post. In any Act passed before 31 July 1963 (ie the date on which the Weights and Measures Act 1963 was passed) any reference to an inspector of weights and measures is to continue to be construed as a reference to an inspector within the meaning of the Weights and Measures Act 1985: s 96(1), Sch 11 para 5(b). The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

8 Ibid s 71(3)(b).

9 Except where the context otherwise requires, any reference in the Weights and Measures Act 1985 to any person, other than a reference to an inspector, is to be construed as a reference to that person or some other person acting on his behalf in the matter in question: s 94(4).

10 Ibid s 71(3)(c). Failure to comply with a request under s 71 may constitute an offence under s 81(1): see PARA 35 post.

11 Ibid s 71(4).

12 'Chief inspector' means a chief inspector of weights and measures appointed under ibid s 72(1) (see PARA 23 post): s 94(1).

13 Ibid s 71(5).

14 Ibid s 71(6).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/23. Appointment and remuneration of inspectors.

(ii) Inspectors and Approved Verifiers

23. Appointment and remuneration of inspectors.

Each local weights and measures authority¹ must from time to time appoint from among persons holding certificates of qualification², and reasonably remunerate:

52 (1) a chief inspector³ of weights and measures⁴; and

53 (2) such number of other inspectors⁵ (including, if the authority so desires, a deputy chief inspector) of weights and measures, if any, as may be necessary for

the efficient discharge in the authority's area of the functions conferred or imposed on inspectors by or under the Weights and Measures Act 1985⁶.

Any person so appointed holds office during the pleasure of the authority by which he was appointed⁷.

A chief inspector is responsible to the local weights and measures authority for the custody and maintenance of the local standards⁸, working standards⁹ and testing and stamping equipment¹⁰ provided for the area for which he was appointed and generally for the operation of the arrangements made to give effect in that area to the purposes of the Weights and Measures Act 1985¹¹.

A deputy chief inspector may perform any functions of the chief inspector for the area for which he was appointed in any case where it appears to the local weights and measures authority to be desirable or necessary in the interests of the efficient operation of such arrangements to authorise him so to do, and, when authorised, he has all the powers of a chief inspector¹².

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 Ie under the Weights and Measures Act 1985 s 73: see PARA 24 post.

3 For the meaning of 'chief inspector' see PARA 22 note 12 ante.

4 Weights and Measures Act 1985 s 72(1)(a).

5 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors' certificates of qualification see PARA 24 post; as to inspectors' powers of entry see PARA 27 post; and as to obstruction and failure to assist inspectors see PARA 35 post.

6 Weights and Measures Act 1985 s 72(1)(b). Any person who, immediately before 31 January 1964 (ie the commencement date of the Weights and Measures Act 1963 s 46 (repealed)), was an inspector of weights and measures appointed under the Weights and Measures Act 1878 s 43 (repealed) is deemed, if immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985), he was acting as an inspector for the purposes of the Weights and Measures Act 1963, to have been appointed an inspector under the Weights and Measures Act 1985 s 72; and any certificate of qualification granted to him under the Weights and Measures Act 1904 s 8 (repealed) is deemed to be a certificate granted to him under the Weights and Measures Act 1985 s 73 (see PARA 24 post): s 96(1), Sch 11 para 21(1). The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

7 Ibid s 72(2).

8 For the meaning of 'local standards' see PARA 62 post.

9 For the meaning of 'working standards' see PARA 64 post.

10 As to the testing and stamping of equipment see PARA 69 post. For the meaning of 'testing equipment' see PARA 64 note 4 post.

11 Weights and Measures Act 1985 s 72(3).

12 Ibid s 72(4).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

23 Appointment and remuneration of inspectors

TEXT AND NOTES 6, 11--Reference to 1985 Act now also to Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659: 1985 Act s 72(1)(b), (3) (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/24. Certificate of qualification to act as inspector.

24. Certificate of qualification to act as inspector.

The Secretary of State¹ must provide for the holding of examinations for the purposes of ascertaining whether persons possess sufficient skill and knowledge for the proper performance of the functions of an inspector², and for the granting of certificates of qualification to persons who pass such examinations³.

If he thinks fit, the Secretary of State may arrange with some other person for the person to hold examinations for the above purposes⁴.

The Secretary of State must not grant a certificate of qualification to any person while he is under 21 years of age⁵.

There must be charged in respect of any examination which is held by the Secretary of State under the above provisions such fees as the Secretary of State may from time to time with the approval of the Treasury determine⁶.

1 As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

3 Weights and Measures Act 1985 s 73(1). At the date at which this volume states the law, the relevant qualification is the Diploma in Trading Standards, which is administered by the Trading Standards Institute on behalf of the Trading Standards Qualifications Council. The qualifying certificate is indorsed by the Secretary of State in discharge of his duties under s 73(1).

Inspectors of weights and measures are listed as a regulated profession under the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002, SI 2002/2934, reg 4, Sch 2 Pt 1 (amended by SI 2004/1771; SI 2004/2033). The Secretary of State may not, on the grounds of inadequate qualification, refuse to authorise a migrant to practise the profession on the same conditions as those applying to holders of the required United Kingdom qualification if certain conditions are met: see the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002, SI 2002/2934, reg 12(2). A migrant's right to practise a profession may be made subject either to the completion of an adequate and satisfactory period of practice, or the completion of an aptitude test.

4 Weights and Measures Act 1985 s 73(2). See also note 3 supra.

5 Ibid s 73(3).

6 Ibid s 73(4). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

24 Certificate of qualification to act as inspector

NOTE 3--SI 2002/2934 replaced: European Communities (Recognition of Professional Qualifications) Regulations 2007, SI 2007/2781 (amended by SI 2008/2683, SI 2009/1587, SI 2009/1885).

TEXT AND NOTE 5--1985 Act s 73(3) repealed: SI 2006/1031.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/25. Approved verifiers.

25. Approved verifiers.

Where the Secretary of State¹ is satisfied that a person who carries on business (whether in Great Britain² or elsewhere) as a manufacturer, installer or repairer of certain equipment³, would, if approved, satisfy certain requirements⁴, and considers that person a fit and proper person to be approved⁵, he may approve the person for the purpose of: (1) testing any such equipment which is manufactured, installed or repaired by him⁶; (2) passing such equipment as fit for use for trade⁷; and (3) stamping any such equipment with the prescribed stamp⁸. Such a person is an 'approved verifier'⁹.

1 As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'Great Britain' see PARA 16 note 11 ante.

3 Ie equipment to which the Weights and Measures Act 1985 s 11 (as amended) applies. See PARA 69 post.

4 Ie the requirements of ibid s 11A, Sch 3A Pt II paras 7-9 (s 11A added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(7); and the Weights and Measures Act 1985 Sch 3A added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(15), Schedule). The Weights and Measures Act 1985 Sch 3A Pt II (as added) specifies requirements as to the maintenance of a quality system, the preparation of a quality system manual, and the keeping of records.

5 Ibid s 11A(1) (as added: see note 4 supra). Before granting approval, the Secretary of State may carry out audits and inspections of the person's systems and procedures: s 11A(3) (as so added). As to fees, the form, effect and conditions of approvals, suspension or withdrawal of approvals, the grant of a new approval following withdrawal, and application for further approval see Sch 3A Pt I paras 1-6 (as added: see note 4 supra).

6 Ibid s 11A(2)(a) (as added: see note 4 supra).

7 Ibid s 11A(2)(b) (as added: see note 4 supra).

8 Ibid s 11A(2)(c) (as added: see note 4 supra).

9 'Approved verifier', in relation to weighing or measuring equipment of any class or description, means a person who is for the time being approved under the Weights and Measures Act 1985 s 11A (as added) in relation to the testing, passing and stamping of weighing or measuring equipment of that class or description: s 11(6A) (added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(4)). As to pre-test stamping of equipment by approved verifiers see PARA 71 post.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

25 Approved verifiers

TEXT AND NOTE 6--Weights and Measures Act 1985 s 11A(2)(a) amended: SI 2008/3262.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/26. Impersonation of inspectors or approved verifiers.

26. Impersonation of inspectors or approved verifiers.

If any person who is not an inspector¹, or who is not an approved verifier², acts or purports to act as such, he is guilty of an offence and liable to a penalty³.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 post; and as to obstruction and failure to assist inspectors see PARA 35 post.

2 For the meaning of 'approved verifier' see PARA 25 ante.

3 Weights and Measures Act 1985 ss 75(2), 84(6) (s 75(2) substituted by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(12)). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see the Weights and Measures Act 1985 ss 75(2), 84(6) (s 75(2) as so substituted). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/27. General powers of inspection and entry.

27. General powers of inspection and entry.

Subject to the production if so requested of his credentials¹, an inspector² may, within the area for which he was appointed inspector, at all reasonable times:

- 54 (1) inspect and test any weighing or measuring equipment³ which is, or which he has reasonable cause to believe to be, used for trade⁴ or in the possession of any

- person or upon any premises⁵ for such use or which has been, or which he has a reasonable cause to believe to have been, passed by an approved verifier⁶, or by a person purporting to act as such a verifier, as fit for such use⁷;
- 55 (2) inspect any goods to which any of the provisions regulating transactions in goods⁸, or any instrument made thereunder, for the time being applies or which he has reasonable cause to believe to be such goods⁹; and
- 56 (3) enter any premises at which he has reasonable cause to believe there to be any such equipment or goods, not being premises used only as a private dwelling house¹⁰.

Subject to the production if so requested of his credentials, an inspector may at any time within the area for which he was appointed inspector seize and detain:

- 57 (a) any article which he has reasonable cause to believe is liable to be forfeited¹¹; and
- 58 (b) any document or goods which he has reason to believe may be required as evidence in proceedings¹² for an offence¹³.

If a justice of the peace, on sworn information in writing:

- 59 (i) is satisfied that there is reasonable ground to believe that any such equipment, goods, articles or documents as are mentioned above are on any premises, or that any offence¹⁴ has been, is being or is about to be committed on any premises¹⁵; and
- 60 (ii) is also satisfied either that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier¹⁶, or that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent¹⁷,

the justice may by warrant under his hand, which continues in force for a period of one month, authorise an inspector to enter the premises, if need be by force¹⁸.

An inspector entering any premises may take with him such other persons and such equipment as may appear to him necessary¹⁹.

An inspector who leaves premises which he has entered by virtue of a warrant duly issued²⁰ and which are unoccupied or from which the occupier is temporarily absent must leave the premises as effectively secured against trespassers as he found them²¹.

If any inspector or other person who enters any workplace by virtue of the above provisions discloses to any person any information obtained by him in the workplace with regard to any secret manufacturing process or trade secret, he is guilty, unless the disclosure was made in the performance of his duty, of an offence and liable to a penalty²².

In exercising his functions under the Weights and Measures Act 1985 at any mine of coal, stratified ironstone, shale or fire-clay, an inspector must so exercise those functions as not to impede or obstruct the working of the mine²³.

Nothing in the Weights and Measures Act 1985 authorises any inspector to stop any vehicle on a highway²⁴.

There are similar powers in regard to EC-stickered non-automatic weighing instruments²⁵.

- 1 'Credentials', in relation to an inspector, means authority in writing from the local weights and measures authority which appointed him for the exercise by that inspector of powers conferred by the Weights and Measures Act 1985: s 94(1).
- 2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; and as to obstruction and failure to assist inspectors see PARA 35 post.
- 3 'Weighing or measuring equipment' means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is constructed to give an indication of the measurement made or other information determined by reference to that measurement: Weights and Measures Act 1985 s 94(1).
- 4 For the meaning of 'use for trade' see PARA 66 post.
- 5 'Premises', except in the Weights and Measures Act 1985 s 45 (see PARA 115 post), includes any place and any stall, vehicle, ship or aircraft: s 94(1). 'Ship' includes any boat and any other description of vessel used in navigation: s 94(1).
- 6 For the meaning of 'approved verifier' see PARA 25 ante.
- 7 Weights and Measures Act 1985 s 79(1)(a) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(13)). The Weights and Measures Act 1985 s 79(1) (as amended) does not deprive an inspector of his implied licence at common law to enter premises: *Brunner v Williams* (1975) 73 LGR 266, DC.
- 8 Ie the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq post.
- 9 Ibid s 79(1)(b). See note 7 supra.
- 10 Ibid s 79(1)(c). See note 7 supra.
- 11 Ibid s 79(2)(a). As to forfeiture see Pt II (ss 7-17) (as amended) or Pt IV (ss 21-46) (as amended); and PARAS 46, 66 et seq post.
- 12 Ie proceedings for an offence under the Weights and Measures Act 1985, except an offence under Pt V (ss 47-68) (as amended) (see PARA 205 et seq post).
- 13 Ibid s 79(2)(b).
- 14 Ie under the Weights and Measures Act 1985, or any instrument made thereunder, except an offence under Pt V (as amended) or any instrument made thereunder.
- 15 Ibid s 79(3)(a).
- 16 Ibid s 79(3)(b)(i). 'Occupier', in relation to any stall, ship or aircraft or in relation to the use of any place for any purpose, means the person for the time being in charge of the stall, vehicle, ship or aircraft or, as the case may be, the person for the time being using that place for that purpose: s 94(1).
- 17 Ibid s 79(3)(b)(ii).
- 18 Ibid s 79(3).
- 19 Ibid s 79(5).
- 20 Ie issued under ibid s 79(3).
- 21 Ibid s 79(6).
- 22 Ibid ss 79(7), 84(5). The penalty on conviction on indictment is imprisonment for a term not exceeding two years or a fine, or both, and on summary conviction is a fine not exceeding the statutory maximum: see ss 79(7), 84(5). As to the statutory maximum see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post.
- 23 Ibid s 79(8).
- 24 Ibid s 79(9).
- 25 See the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 38(1); and PARA 96 post.

UPDATE**16-38 Administration**

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

27 General powers of inspection and entry

NOTES 12, 14--Exception for an offence under the 1985 Act Pt V (repealed) omitted: s 79(2)(b), (3)(a) (amended by SI 2006/659).

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28. Special powers with respect to certain goods.

Where any person:

- 61 (1) makes in any manner any representation as to the quantity of any goods offered or exposed for sale by him¹; or
 - 62 (2) has in his possession or charge awaiting or in the course of delivery to the buyer any goods which have been sold or agreed to be sold, and the sale is, or purports to be, or is required² to be, by quantity expressed in a particular manner³, or is such that the quantity of the goods sold is required⁴ to be made known to the buyer⁵ at or before a particular time⁶; or
 - 63 (3) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold:
- 1
- 1. (a) any goods pre-packed⁷ or otherwise made up in or on a container⁸ for sale or for delivery after sale which are required⁹ to be pre-packed, or to be otherwise so made up, as the case may be, only in particular quantities or only if the container is marked¹⁰ with particular information¹¹; or
 - 2. (b) any goods pre-packed in or on a container marked with an indication of quantity¹²; or
 - 3. (c) any goods required¹³ to be made up for sale only in particular quantities¹⁴; or
- 2
- 64 (4) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any specified goods¹⁵,

an inspector's powers¹⁶ include power to require the person referred to above either to do in the presence of the inspector, or to permit the inspector to do, all or any of the following things, that is to say:

- 65 (i) weigh or otherwise measure or count the goods¹⁷;
- 66 (ii) weigh or otherwise measure any container in or on which the goods are made up¹⁸;

- 67 (iii) in the case of goods within head (4) above, do anything else as respects the goods or container which is reasonably necessary to ascertain whether the requirement there mentioned is complied with, and which does not damage or depreciate the goods or container¹⁹;
- 68 (iv) if necessary for any of the purposes of heads (i) to (iii) above, break open any container of goods, or open any vending machine in which goods are offered or exposed for sale²⁰,

and, in the case of any of the goods which are not already sold, an inspector's powers include power to require that person to sell any of them to the inspector²¹.

Where any container of goods is so broken open and all the statutory requirements²² which are applicable to those goods are found to have been complied with, then:

- 69 (A) if the container can be resealed without injury to the contents, the inspector may reseal it with a label certifying that all such requirements have been complied with²³; and
- 70 (B) if he does not reseal it or it cannot be so resealed without injury to the contents, the inspector must at the request of the person referred to above buy the goods on behalf of the local weights and measures authority²⁴.

1 Weights and Measures Act 1985 s 38(1)(a). Failure to provide assistance under s 38 (as amended) may constitute an offence: see s 81(1)(a); and PARA 35 head (1) post.

2 Ie by or under ibid Pt IV (ss 21-46) (as amended): see PARA 105 et seq post.

3 As to goods sold by quantity in a particular manner see PARA 114 post.

4 Ie by or under any provision of the Weights and Measures Act 1985 Pt IV (as amended), other than s 26 (see PARA 117 post).

5 As to when the quantity of goods sold is deemed to be made known to the buyer see PARA 115 post.

6 Weights and Measures Act 1985 s 38(1)(b).

7 'Pre-packed' means made up in advance ready for retail sale in or on a container (see note 8 infra): ibid s 94(1). On any premises where articles of any description are made up in advance ready for retail sale in or on a container or kept or stored for sale after being so made up, any article of that description found made up in or on a container is deemed to be pre-packed unless the contrary is proved; and it is not sufficient proof of the contrary to show that the container has not been marked in accordance with the requirements of the Weights and Measures Act 1985 or any instrument made thereunder with respect to the pre-packing of such articles: s 94(3). As to the meaning of 'premises' see PARA 27 note 5 ante; and as to the meaning of 'mark' see PARA 28 note 10 ante.

8 'Container', except in ibid Pt V (ss 47-68) (as amended) (see PARA 205 note 5 post), includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band: s 94(1).

9 See note 2 supra.

10 'Mark' includes label: Weights and Measures Act 1985 s 94(1).

11 Ibid s 38(1)(c)(i).

12 Ibid s 38(1)(c)(ii). 'Indication of quantity', in relation to any container in or on which goods are made up, means a statement in writing to the effect that those goods are of, or of not less than, a specified quantity by net weight, gross weight or other measurement or by number, as the case may require: s 94(1). For the meanings of 'net weight' and 'gross weight' see PARA 120 post.

13 See note 2 supra.

- 14 Weights and Measures Act 1985 s 38(1)(c)(iii).
- 15 Ibid s 38(1)(d). The goods referred to are those subject to a requirement imposed by virtue of s 22(1)(c); see PARA 105 head (3) post.
- 16 Ie under ibid s 79 (as amended): see PARA 27 ante.
- 17 Ibid s 38(2)(a).
- 18 Ibid s 38(2)(b).
- 19 Ibid s 38(2)(c).
- 20 Ibid s 38(2)(d).
- 21 Ibid s 38(2).
- 22 Ie all requirements of, and of any instruments made under, ibid Pt IV (as amended).
- 23 Ibid s 38(3)(a).
- 24 Ibid s 38(3)(b).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

28 Special powers with respect to certain goods

NOTE 8--Words 'except ... (ss 47-68)' (repealed) omitted: 1985 Act s 94(1) (amended by SI 2006/659).

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29. Performance by inspectors of additional functions.

The arrangements made by a local weights and measures authority¹ to give effect in its area to the purposes of the Weights and Measures Act 1985 may include the provision under the supervision of the chief inspector² for its area of a service for the adjustment of weights and measures, but not of other weighing or measuring equipment³. Where a service is so provided, the local weights and measures authority must charge such reasonable fees as it may determine in connection with it⁴.

No person holding office as an inspector⁵ who is employed in the inspection of weighing or measuring equipment for the purposes of its use for trade⁶ may also undertake, whether as part of a service provided by a local weights and measures authority under the above provisions⁷ or otherwise, the adjustment for those purposes of weighing or measuring equipment of any description⁸.

A local weights and measures authority may make arrangements whereby an inspector may, at the request of any person and subject to payment by that person of such fee, if any, as the authority may think fit, carry out or submit to that person a report on⁹:

- 71 (1) a weighing or other measurement of any goods submitted for the purpose by that person at such place as the authority may direct or approve¹⁰;
- 72 (2) a test of the accuracy of any weighing or measuring equipment so submitted¹¹.

A local weights and measures authority may also make arrangements whereby an inspector may, at the request of the Secretary of State¹² and subject to payment of such fee, if any, as the authority may think fit, provide advice and assistance to the Secretary of State in connection with the carrying out of an audit or inspection for the purposes of approval of persons to verify equipment manufactured, installed or repaired by them¹³.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 For the meaning of 'chief inspector' see PARA 22 note 12 ante.

3 Weights and Measures Act 1985 s 74(1). For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante. Authority to provide an adjustment service was originally conferred by the Weights and Measures Act 1878 because most weighing machines in use at that time were of the non self-indicating type (ie required loose weights for their operation) and there were insufficient servicing contractors to carry out the work in many areas. Measures, although included in the powers conferred, were seldom adjusted because of the practical difficulties of so doing. A small number of authorities provide the service but little use is made of it in practice because: (1) there are few loose weights now in use for trade; and (2) it is probably no more expensive (if not less expensive) to purchase a new weight as to have one adjusted and re-stamped.

4 Ibid s 74(2). See also note 3 supra.

5 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

6 For the meaning of 'use for trade' see PARA 66 ante.

7 Ie under the Weights and Measures Act 1985 s 74(1).

8 Ibid s 74(3). See also note 3 supra.

9 Ibid s 74(4) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(10)). The provisions of the Weights and Measures Act 1985 s 74(4) (as amended) and s 74(5) (as added) are without prejudice to the functions of local weights and measures authorities or inspectors under any other provisions of the Act: s 74(6) (s 74(5), (6) added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(11)).

The weighing or measurement of goods under the Weights and Measures Act 1985 s 74 (as amended) is generally requested by one or both parties to a dispute as to the actual quantity of goods concerned.

10 Ibid s 74(4)(a). Weighing or measuring equipment submitted for test under s 74 (as amended) can include equipment which is not in use for trade and would otherwise not be subject to testing by an inspector. See note 9 supra.

11 Ibid s 74(4)(b). See note 9 supra.

12 As to the Secretary of State see PARA 16 ante.

13 Weights and Measures Act 1985 s 74(5) (as added: see note 9 supra). As to the audits or inspections referred to in the text see s 11A(3) (as added) or Sch 3A para 7(3) (as added); and PARA 25 ante. See note 9 supra.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

29 Performance by inspectors of additional functions

TEXT AND NOTE 3--Reference to 1985 Act now also to Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659: 1985 Act s 74(1) (amended by SI 2006/659).

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30. Power to inspect certain documents.

An inspector¹, subject to the production if so requested of his credentials², may require the person in charge of any document required³ to be associated with any goods to produce that document for inspection⁴.

If the inspector has reasonable cause to believe that any document so produced to him contains any inaccurate statement, he may either:

- 73 (1) seize and detain the document, giving in exchange a copy with an indorsement signed by him certifying that the original has been seized and giving particulars of any inaccuracy alleged⁵; or
- 74 (2) without prejudice to any proceedings which may be taken by reason of any inaccuracy alleged⁶, make on the document an indorsement signed by him giving particulars of any such inaccuracy⁷.

1 For the meaning of 'inspector' see PARA 22 note 7 ante.

2 For the meaning of 'credentials' see PARA 27 note 1 ante.

3 le by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq post.

4 Ibid s 39(1). Failure to provide assistance under s 39 may constitute an offence: see s 81(1)(a); and PARA 35 head (1) post.

5 Ibid s 39(2)(a). Except where the context otherwise requires, any reference in Pt IV (as amended) to any such document includes a reference to a copy given in pursuance of s 39(2)(a): s 39(2).

6 See PARAS 111-112 post.

7 Weights and Measures Act 1985 s 39(2)(b).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/31. Powers in respect of goods carried on road vehicles.

31. Powers in respect of goods carried on road vehicles.

Where, in the case of any goods being carried on a road vehicle:

- 75 (1) the whole of the vehicle's load is being carried for sale to, or for delivery after sale to, the same person¹; and
- 76 (2) any document produced² by the person in charge of the vehicle purports or is required³ to state the quantity of the goods⁴,

the inspector⁵ may⁶ do all or any of the following things, that is to say:

- 77 (a) require the goods to which the document relates to be unloaded from the vehicle⁷;
- 78 (b) require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment⁸;
- 79 (c) require the person in charge of the vehicle to have it check-weighed⁹.

These powers may be exercised only to such extent as may appear to the inspector reasonably necessary in order to secure that the statutory provisions¹⁰ and any instrument made thereunder are duly observed¹¹.

Nothing in the Weights and Measures Act 1985 authorises any inspector to stop any vehicle on a highway¹².

1 Weights and Measures Act 1985 s 40(1)(a). Failure to provide assistance under s 40 may constitute an offence: see s 81(1)(a); and PARA 35 head (1) post.

2 Ie in pursuance of ibid s 39(1): see PARA 30 ante.

3 Ie by or under ibid Pt IV (ss 21-46) (as amended): see PARA 105 et seq post.

4 Ibid s 40(1)(b).

5 For the meaning of 'inspector' see PARA 22 note 7 ante.

6 Ie for the purpose of the exercise of his powers under the Weights and Measures Act 1985 s 38(2): see PARA 28 ante.

7 Ibid s 40(2)(a).

8 Ibid s 40(2)(b). For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

9 Ibid s 40(2)(c). 'Check-weighed', in relation to any vehicle, means weighed with its load by means of the nearest suitable and available weighing equipment, and weighed again after it has been unloaded by means of the same or other suitable weighing equipment: s 94(1).

10 Ie the provisions of the Weights and Measures Act 1985, apart from Pt V (ss 47-68) (as amended) (see PARA 205 et seq post).

11 Ibid s 40(3).

12 Ibid s 79(9).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

31 Powers in respect of goods carried on road vehicles

NOTE 10--Reference to exclusion of 1985 Act Pt V (repealed) omitted: s 40(3) (amended by SI 2006/659).

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32. Check-weighing of road vehicles.

Where any road vehicle is loaded with goods for sale by weight to a single buyer of the whole of the vehicle's load, or for delivery to the buyer after they have been so sold, the buyer or seller of the goods, or any inspector¹ who shows that he is authorised so to do by the buyer or seller of the goods, may require the person in charge of the vehicle to have it check-weighed²; and if that person fails without reasonable cause to comply with any such requirement, he is guilty of an offence and liable to a penalty³.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

2 For the meaning of 'check-weighed' see PARA 31 note 9 ante.

3 Weights and Measures Act 1985 ss 41, 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 41, 84(6). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post. As to the power to weigh or count goods see PARA 28 post. For special provisions governing the weighing of solid fuel at the buyer's request see s 21, Sch 5 Pt II; and PARA 181 post.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

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33. Test purchases.

A local weights and measures authority¹ has power to make, or to authorise an inspector² to make on its behalf, such purchases of goods as may appear expedient for the purpose of determining whether or not the statutory provisions relating to weights and measures³ are being complied with⁴.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

3 The provisions of the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended) (see PARA 105 et seq post) and any instrument made thereunder, and the provisions of Pt II (ss 7-17) (as amended) (see PARAS 46, 66 et seq post) and Pt III (ss 18-20) (see PARAS 100-102 post) and any instrument made thereunder.

4 Ibid s 42.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/34. Offences by inspectors or approved verifiers.

34. Offences by inspectors or approved verifiers.

Any inspector¹ who:

- 80 (1) stamps² any weighing or measuring equipment³ in contravention of any provision of the Weights and Measures Act 1985 or of any instrument made thereunder or without duly testing it⁴; or
- 81 (2) derives any profit from, or is employed in, the making, adjusting or selling of weighing or measuring equipment⁵; or
- 82 (3) knowingly commits a breach of any duty imposed on him by or under the Weights and Measures Act 1985 or otherwise misconducts himself in the execution of his office⁶,

is guilty of an offence and liable to a penalty⁷.

Any approved verifier⁸ who:

- 83 (a) stamps any weighing or measuring equipment in contravention of any provision of the Weights and Measures Act 1985 or of any instrument made thereunder or without duly testing it⁹; or
- 84 (b) commits any breach of any duty imposed on him by or under the Weights and Measures Act 1985¹⁰,

is guilty of an offence and liable to a penalty¹¹.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

2 'Stamp' means, subject to the Weights and Measures Act 1985 s 15A(4) (as added) (see PARA 71 post), a mark for use as evidence of the passing of weighing or measuring equipment as fit for use for trade, whether applied by impressing, casting, engraving, etching, branding, or otherwise; and cognate expressions are to be construed accordingly: s 94(1). As to the meaning of 'mark' see PARA 28 note 10 ante. For the meaning of 'use for trade' see PARA 66 post.

3 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

4 Weights and Measures Act 1985 s 75(1)(a).

5 Ibid s 75(1)(b).

6 Ibid s 75(1)(c). 'Knowledge' is an essential ingredient of the offence under s 75(1)(c) and must be proved by the prosecution: see *Gaumont British Distributors Ltd v Henry* [1939] 2 KB 711, [1939] 2 All ER 808. There may be one of three degrees of knowledge (*Taylor's Central Garages (Exeter) Ltd v Roper* [1951] WN 383, DC), ie: (1) actual knowledge in which the state of mind of a person is material and it is relevant to consider whether there was an intent to deceive (*R v Kemp* [1964] 2 QB 341, [1964] 1 All ER 649, CCA); (2) knowledge in the second degree in which a person has shut his eyes to an obvious means of knowledge or refrains from making inquiries the results of which he may not care to have; this amounts to actual knowledge (*Knox v Boyd* 1941 JC 82); (3) constructive knowledge which merely involves neglecting to make inquiries which a reasonable person would make; this is not actual knowledge (*London Computator Ltd v Seymour* [1944] 2 All ER 11, DC; *Mallon v Allon* [1964] 1 QB 385, [1963] 3 All ER 843). Mere carelessness is not enough: *Bloomfield v Williams* [1970] RTR 184, DC.

7 Weights and Measures Act 1985 ss 75(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 75(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post. Disclosure by inspectors of information with regard to any manufacturing process or trade secret is punishable under s 79(7): see PARA 27 ante.

8 For the meaning of 'approved verifier' see PARA 25 ante.

9 Weights and Measures Act 1985 s 75(1A)(a) (s 75(1A) added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(12)).

10 Weights and Measures Act 1985 s 75(1A)(b) (as added: see note 9 supra). Section 34 (see PARA 234 post) applies in relation to proceedings for an offence under s 75(1A)(b) (as added) as it applies in relation to proceedings for an offence under Pt IV (ss 21-46) (as amended) (see PARA 105 et seq post): s 75(3) (added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(12)).

11 Weights and Measures Act 1985 ss 75(1A), 84(6) (s 75(1A) as added: see note 9 supra). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 75(1A), 84(6) (s 75(1A) as added).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

34 Offences by inspectors or approved verifiers

TEXT AND NOTES 4, 10--References in heads (1) and (b) to 1985 Act now also to Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659: 1985 Act s 75(1)(a), (1A)(b) (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(2) LOCAL ADMINISTRATION; INSPECTORS AND APPROVED VERIFIERS/ (ii) Inspectors and Approved Verifiers/35. Obstruction of inspectors; failure to provide assistance or information.

35. Obstruction of inspectors; failure to provide assistance or information.

Any person who wilfully obstructs¹ an inspector² acting in pursuance of the Weights and Measures Act 1985 is guilty of an offence and liable to a penalty³.

Any person who:

- 85 (1) wilfully fails to comply with any requirement properly made of him by an inspector⁴; or
- 86 (2) without reasonable cause fails to give to any inspector acting in pursuance of the Weights and Measures Act 1985 any other assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his statutory functions⁵,

is also guilty of an offence and liable to a penalty⁶. If any person, in giving to an inspector any such information as is mentioned above⁷, gives any information which he knows to be false, he is guilty of an offence and liable to a penalty⁸.

Nothing in these provisions⁹ is to be construed as requiring a person to answer any question or give any information if to do so might incriminate him¹⁰.

1 As to the meaning of 'wilful obstruction' see the cases cited in CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 735.

2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to the appointment of inspectors see PARA 23 ante.

3 Weights and Measures Act 1985 ss 80, 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 80, 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. See also *Creasy v Hosking* (1953) Times, 31 July, DC; *Brunner v Williams* (1975) 73 LGR 266, DC.

4 Weights and Measures Act 1985 s 81(1)(a). The requirements referred to in the text are requirements made under s 38 (as amended) (see PARA 28 ante), s 39 (see PARA 30 ante) or s 40 (see PARA 31 ante).

5 Ibid s 81(1)(b). The functions referred to in the text are those under Pt II (ss 7-17) (as amended) (see PARAS 46, 66 et seq post), Pt III (ss 18-20) (see PARAS 100-102 post), Pt IV (ss 21-46) (as amended) (see PARA 105 et seq post), Pt VI (ss 69-78) (as amended) (see PARAS 20 et seq ante, 36-38 post) or Pt VII (ss 79-99) (as amended) (see PARAS 27 ante, 226 et seq post).

6 Ibid ss 81(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 81(1), 84(6).

7 See ibid s 81(1); and the text to notes 4-6 supra.

8 Ibid ss 81(2), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 81(2), 84(6).

9 See *ibid* s 81; and the text to notes 4-8 *supra*.

10 *Ibid* s 81(3). The Civil Evidence Act 1968 s 14(1) (privilege against self-incrimination: see *CIVIL PROCEDURE* vol 11 (2009) PARA 974) applies to the right conferred by the Weights and Measures Act 1985 s 81(3) as it applies to the right described in the Civil Evidence Act 1968 s 14(1): Weights and Measures Act 1985 s 81(4).

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see *LOCAL GOVERNMENT* vol 69 (2009) PARA 733.

35 Obstruction of inspectors; failure to provide assistance or information

TEXT AND NOTE 3--Reference to 1985 Act now also to Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659: 1985 Act s 80 (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(3) FEES/36. Fees generally.

(3) FEES

36. Fees generally.

A local weights and measures authority¹ may charge such reasonable fees as it may determine:

- 87 (1) for services or facilities provided by it, or by the inspectors² appointed for its area, in pursuance of a Community obligation³; and
- 88 (2) for authorisations, certificates or other documents issued by the authority or any such inspector in pursuance of a Community obligation⁴.

Where a government department, in pursuance of any Community obligation, provides any services or facilities or issues any authorisation, certificate or other document, it may, in connection therewith, require the payment of such fees or other charges as may be prescribed by, or determined under, regulations made by the minister in charge of the department with the consent of the Treasury⁵.

In respect of any test carried out under the provisions⁶ on passing and stamping⁷ of equipment there must be charged such reasonable fees as the local weights and measures authority may determine⁸.

1 For the meaning of 'local weights and measures authority' see PARA 20 *ante*.

2 For the meaning of 'inspector' see PARA 22 note 5 *ante*. As to inspectors of weights and measures see PARA 23 *ante*; as to inspectors' powers of entry see PARA 27 *ante*; and as to obstruction and failure to assist inspectors see PARA 35 *ante*.

3 Weights and Measures Act 1985 s 76(a).

4 *Ibid* s 76(b).

5 Finance Act 1973 s 56(1). Such regulations may provide for the recovery and disposal of any sums payable under the regulations and may make different provision for different circumstances: s 56(2). The powers conferred by s 56 are without prejudice to any powers exercisable apart from s 56 to require the payment of fees or other charges: s 56(3). Such regulations must be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament: s 56(4). As to the regulations made under s 56 see the Measuring Instruments (EEC Requirements) (Fees) Regulations 2004, SI 2004/1300. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

6 le under the Weights and Measures Act 1985 s 11: see PARA 69 post.

7 For the meaning of 'stamp' see PARA 34 note 2 ante.

8 See the Weights and Measures Act 1985 s 11(5); and PARA 69 post.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

36 Fees generally

NOTE 5--SI 2004/1300 amended: SI 2006/604, SI 2006/2679, SI 2007/3224, SI 2008/732, SI 2009/2748, SI 2010/728.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(3) FEES/37. Reduction of fees.

37. Reduction of fees.

Where a person gives assistance in connection with the inspection, testing or stamping¹ of weighing or measuring equipment by an inspector², the local weights and measures authority³ may reduce, by a sum which the authority considers is reasonable by reference to the assistance, the amount of any payment falling to be made by that person to the inspector in respect of the inspection, testing or stamping⁴.

1 For the meaning of 'stamp' see PARA 34 note 2 ante.

2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

3 For the meaning of 'local weights and measures authority' see PARA 20 ante.

4 Weights and Measures Act 1985 s 77.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/2. ADMINISTRATION/(3) FEES/38. Fees received by inspectors.

38. Fees received by inspectors.

Every inspector¹ must, at such times as the local weights and measures authority² may direct, account for and pay over to that authority or as it may direct all fees taken by him for the performance of his duties³.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

2 For the meaning of 'local weights and measures authority' see PARA 20 ante.

3 Weights and Measures Act 1985 s 78.

UPDATE

16-38 Administration

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/39. In general.

3. UNITS AND STANDARDS OF MEASUREMENT

(1) UNITS OF MEASUREMENT

(i) In general

39. In general.

The yard or the metre¹ is the unit of measurement of length and the pound or the kilogram² is the unit of measurement of mass by reference to which any measurement of length or mass is to be made in the United Kingdom³; and (1) the yard is 0.9144 metre exactly; (2) the pound is 0.45359237 kilogram exactly⁴.

Other units are defined for the purposes of measurements falling to be made in the United Kingdom⁵; and, for the purposes of any measurement of weight falling to be so made, the weight of anything may be expressed⁶ in the same terms as its mass⁷.

The Secretary of State⁸ may by order amend these definitions of units of measurement by adding or removing⁹ any unit of measurement of length, area, volume, capacity, mass or weight, as the case may be¹⁰. Any such order may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State expedient¹¹.

There is a power to make regulations amending certain enactments relating to agriculture and fishing by substituting metric for non-metric units or expressions¹².

1 For the meaning of 'metre' see PARA 40 post.

2 For the meaning of 'kilogram' see PARA 44 post. No provision contained in or made under the Weights and Measures Act 1985 or any other Act prevents the use of 'gram' or 'gramme' as alternative ways of spelling the unit; and the same applies for other units in the metric system which are compounds of 'gram': s 92.

3 For the meaning of the 'United Kingdom' see PARA 20 note 6 ante.

4 Weights and Measures Act 1985 s 1(1) (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (2)(a)). The Weights and Measures Act 1985 s 1(1) (as amended) does not have effect so as to authorise the use in the specified circumstances, up to and including 31 December 2009, of: (1) the yard as a measurement of length; or (2) the pound as a measurement of mass, otherwise than in accordance with the Units of Measurement Regulations 1986, SI 1986/1082, reg 7 (as substituted and amended) (supplementary indications): Weights and Measures Act 1985 s 1(6) (added and amended by the Units of Measurement Regulations 1994, SI 1994/2867, regs 6(1), (2)(b), 7(1), (2)). For these purposes, 'the specified circumstances' has the same meaning as in the Units of Measurement Regulations 1986, SI 1986/1082, that is to say, the circumstances specified in EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) on units of measurement art 2(a) as limited by the provisions of art 2(b): Weights and Measures Act 1985 s 1(7) (added by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (2)(c)). As to EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) see PARA 5 ante. Article 2 provides that the obligations arising under art 1 relate to measuring instruments used, measurements made and indications of quantity expressed in units of measurement, for economic, public health, public safety or administrative purposes; and that the Directive does not affect the use in the field of air and sea transport and rail traffic of units, other than those made compulsory by the Directive, which have been laid down in international conventions or agreements binding the European Community or the member states. See also PARAS 46-47 post.

As to units of measurement in the SI system (metric) see further the Units of Measurement Regulations 1986, SI 1986/1082 (as amended); and PARA 47 post. Note that these regulations are not confined to use for trade. As to the conversion, in construing certain provisions having effect for economic, public health, public safety or administrative purposes, of certain imperial units of measurement into corresponding metric units see also the Units of Measurement Regulations 1995, SI 1995/1804.

As to offences arising out of the failure to use metric weights generally see *Thoburn v Sunderland City Council* [2002] EWHC 195 (Admin), [2003] QB 151, [2002] 4 All ER 156 (use for trade of an unstamped weighing instrument, the stamp having been removed because the instrument only indicated in imperial units; the issue in the case was whether the subordinate legislation providing for metrication was valid).

5 The Weights and Measures Act 1985 s 1(2), Sch 1 (as amended) (see PARA 40 et seq post) has effect for defining for the purposes of measurements falling to be made in the United Kingdom the units of measurement set out therein: s 1(2).

6 Ie by reference to the units of measurement set out in *ibid* Sch 1 Pt V: see PARA 44 post.

7 *Ibid* s 1(2).

8 As to the Secretary of State see PARA 16 ante.

9 Ie from the Weights and Measures Act 1985 Sch 1 Pts I-VI (as amended): see PARAS 40 et seq, 51 et seq post.

10 *Ibid* s 1(3). Without prejudice to s 8(6)(b) (see PARA 46 note 4 post), an order under s 1(3) must not remove the pint from Sch 1 Pt IV (as amended) (see PARA 43 post): s 1(4) (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (2)(b)). At the date at which this volume states the law, no order had been made under the Weights and Measures Act 1985 s 1(3) and none has effect as if so made. As to the making of orders generally see PARA 3 ante.

11 *Ibid* s 1(5).

12 See the Agriculture (Miscellaneous Provisions) Act 1976 s 7. Most of the amending regulations which substituted metric units for imperial units have been revoked or have lapsed or have been made under the principal enabling statute: see eg the Food Safety (Amendment) (Metrication) Regulations 1992, SI 1992/2597 (made under the Food Safety Act 1990 s 16(1)-(3) (as amended), s 17(1) (as amended), s 26(1), (3) (as amended), s 48(1) (as amended), Sch 1 paras 1, 5).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/40. Length.

40. Length.

The following are the units of measurement of length employed in the Weights and Measures Act 1985, and their definitions:

- 89 (1) the kilometre, which is equal to 1,000 metres;
- 90 (2) the metre, which is the length of the path travelled by light in vacuum during a time interval of $1/299792458$ of a second;
- 91 (3) the decimetre, which is equal to one-tenth of a metre;
- 92 (4) the centimetre, which is equal to one-hundredth of a metre; and
- 93 (5) the millimetre, which is equal to one-thousandth of a metre¹.

¹ Weights and Measures Act 1985 s 1(2), Sch 1 Pt I (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(a)).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/41. Area.

41. Area.

The following are the units of measurement of area employed in the Weights and Measures Act 1985, and their definitions:

- 94 (1) the hectare, which is equal to 100 ares;

- 95 (2) the decare, which is equal to ten ares;
- 96 (3) the are, which is equal to 100 square metres;
- 97 (4) the square metre, which is equal to a superficial area equal to that of a square each side of which measures one metre;
- 98 (5) the square decimetre, which is equal to one-hundredth of a square metre;
- 99 (6) the square centimetre, which is equal to one-hundredth of a square decimetre;
- 100 (7) the square millimetre, which is equal to one-hundredth of a square centimetre¹.

¹ Weights and Measures Act 1985 s 1(2), Sch 1 Pt II (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(a)).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/42. Volume.

42. Volume.

The following are the units of measurement of volume employed in the Weights and Measures Act 1985, and their definitions:

- 101 (1) the cubic metre, which is equal to a volume equal to that of a cube each edge of which measures one metre;
- 102 (2) the cubic decimetre, which is equal to one-thousandth of a cubic metre;
- 103 (3) the cubic centimetre, which is equal to one-thousandth of a cubic decimetre;
- 104 (4) the hectolitre, which is equal to 100 litres;
- 105 (5) the litre, which is equal to a cubic decimetre;
- 106 (6) the decilitre, which is equal to one-tenth of a litre;
- 107 (7) the centilitre, which is equal to one-hundredth of a litre; and
- 108 (8) the millilitre, which is equal to one-thousandth of a litre¹.

¹ Weights and Measures Act 1985 s 1(2), Sch 1 Pt III.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/43. Capacity.

43. Capacity.

The following are the imperial and metric units of measurement of capacity employed in the Weights and Measures Act 1985, and their definitions.

The imperial unit is the pint, which is equal to 0.56826125 cubic decimetre¹.

The metric units are:

- 109 (1) the hectolitre, which is equal to 100 litres;
- 110 (2) the litre, which is equal to a cubic decimetre;
- 111 (3) the decilitre, which is equal to one-tenth of a litre;
- 112 (4) the centilitre, which is equal to one-hundredth of a litre; and
- 113 (5) the millilitre, which is equal to one-thousandth of a litre².

¹ Weights and Measures Act 1985 s 1(2), Sch 1 Pt IV (amended by the Units of Measurement Regulations 1994, SI 1994/2867, regs 6(1), (5)(b), 7(1), (3)(a)(ii)).

² Weights and Measures Act 1985 Sch 1 Pt IV (as amended: see note 1 *supra*).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/44. Mass or weight.

44. Mass or weight.

The following are the imperial and metric units of measurement of mass or weight employed in the Weights and Measures Act 1985, and their definitions.

The imperial unit is the ounce troy, which is equal to 0.0311034768 kilogram¹.

The metric units are:

- 114 (1) the tonne or metric tonne, which is equal to 1,000 kilograms;
- 115 (2) the kilogram, which is the unit of mass and is equal to the mass of the international prototype of the kilogram;
- 116 (3) the hectogram, which is equal to one-tenth of a kilogram;
- 117 (4) the gram, which is equal to one-thousandth of a kilogram;
- 118 (5) the carat (metric), which is equal to one-fifth of a gram; and
- 119 (6) the milligram, which is equal to one-thousandth of a gram².

1 Weights and Measures Act 1985 s 1(2), Sch 1 Pt V (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 7(1), (3)(b)(ii), (iii)). See *Thoburn v Sunderland City Council* [2002] EWHC 195 (Admin), [2003] QB 151, [2002] 4 All ER 156, in regard to offences arising out of the failure to use metric weights as a primary indicator of weight for the sale of goods loose from bulk or from failure to display such goods by reference to a kilogram weight under the Weights and Measures Act 1985 s 1 (as amended) (see PARA 39 note 4 ante).

2 Weights and Measures Act 1985 Sch 1 Pt V (as amended: see note 1 ante).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/(i) In general/45. Measurement of electricity.

45. Measurement of electricity.

The following are the units of measurement of electricity employed in the Weights and Measures Act 1985, and their definitions:

- 120 (1) the ampere, which is that constant current which, if maintained in two straight parallel conductors of infinite length, of negligible circular cross-section and placed one metre apart in vacuum, would produce between these conductors a force equal to 2×10^{-7} newton per metre of length;
- 121 (2) the ohm, which is the electric resistance between two points of a conductor when a constant potential difference of one volt, applied between the two points, produces in the conductor a current of one ampere, the conductor not being the seat of any electromotive force;
- 122 (3) the volt, which is the difference of electrical potential between two points of a conducting wire carrying a constant current of one ampere when the power dissipated between these points is equal to one watt;
- 123 (4) the watt, which is the power which in one second gives rise to energy of one joule;
- 124 (5) the kilowatt, which equals 1,000 watts; and
- 125 (6) the megawatt, which equals one million watts¹.

1 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VII.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/A. IN GENERAL/46. Units of measurement lawful for use for trade.

(ii) Use for Trade, etc

A. IN GENERAL

46. Units of measurement lawful for use for trade.

No person may use for trade¹ any unit of measurement of length, area, volume, capacity, mass or weight which is not lawful².

Nor may any person use for trade:

- 126 (1) the ounce troy³, except for the purposes of transactions in, or in articles made from, gold, silver or other precious metals, including transactions in gold or silver thread, lace or fringe⁴; or
- 127 (2) the carat (metric)⁵, except for the purposes of transactions in precious stones or pearls⁶; or
- 128 (3) a capacity measure of 35, 70, 125, 150 or 175 millilitres⁷, except for the purposes of transactions in intoxicating liquor⁸; or
- 129 (4) the pint⁹ except for:
 - 3
 - 4. (a) the purposes of the sale of draught beer or cider¹⁰; or
 - 5. (b) the purposes of the sale of milk in returnable containers¹¹.
- 4

A person who contravenes¹² the above provisions is guilty of an offence and liable to a penalty¹³, and any measure or weight used, or in any person's possession for use, in contravention of those provisions is liable to be forfeited¹⁴.

Nothing in the above provisions precludes the use for trade up to and including 31 December 2009, of any supplementary indication; and, for this purpose, any indication of quantity¹⁵ ('the imperial indication') is a supplementary indication¹⁶ if:

- 130 (i) it is expressed in any unit of measurement of length, area, volume, capacity, mass or weight other than a metric unit¹⁷;
- 131 (ii) it accompanies an indication of quantity expressed in a metric unit ('the metric indication') and is not itself authorised for use in the circumstances as a primary indication of quantity¹⁸; and
- 132 (iii) the metric indication is the more prominent, the imperial indication being, in particular, expressed in characters no larger than those of the metric indication¹⁹.

1 For the meaning of 'use for trade' see PARA 66 post.

2 Weights and Measures Act 1985 s 8(1)(a), (8). The effect of s 8(1)(a) is that no unit of measurement may be used for trade unless it is included in Sch 1 Pts I-V (as amended): see PARAS 40-44 ante.

Section 8(1)(a) does not apply to the prescribing of, or the dispensing of a prescription for, drugs: s 8(3). 'Drugs' has the same meaning as for the purposes of the Food Safety Act 1990 (see FOOD): Weights and Measures Act 1985 s 94(1) (definition amended by the Food Safety Act 1990 s 59(1), Sch 3 para 34). As to the corresponding provisions relating to drugs see PARA 48 post.

The provisions of the Weights and Measures Act 1985 s 8(1)-(4) (as amended) have effect subject to s 8(5A) (as added) (see the text to notes 16-18 *infra*), s 9 (see PARA 57 *post*) and s 89 (see PARA 49 *post*): s 8(5) (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 5(1), (2)).

Nothing in the Weights and Measures Act 1985 s 8 (as amended) prevents any of the units of measurement mentioned in s 96(1), Sch 11 para 13(2) from being used for products or equipment which were placed on the market or used before 1 December 1980, other than weighing or measuring equipment (including weights): Sch 11 para 13(1). The units of measurement referred to in Sch 11 para 13(1) are the chain, furlong, rood, square mile, square inch, cubic yard, cubic foot, cubic inch, ton, hundredweight, cental, quarter, stone, dram, grain and quintal: Sch 11 para 13(2); and see PARAS 51-55, 77 *post*. See also Sch 11 para 12; and PARA 69 note 4 *post*. The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 *et seq*): Weights and Measures Act 1985 s 96(3). The re-enactment in Sch 11 paras 13-17 (as amended) of provisions contained in the Units of Measurement Regulations 1978, SI 1978/484 (revoked) and the Units of Measurement Regulations 1980, SI 1980/1070 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(b).

Weighing equipment (including weights) which weighs wholly or partly in grains, stones, quarters, hundredweights or tons may continue to be used for trade if, in the case of equipment prescribed for the purposes of s 11 (as amended) (see PARAS 25 *ante*, 69 *post*), it was first passed as fit for use for trade and where necessary stamped in accordance with the Weights and Measures Act 1963 before 1 December 1980 or if, in the case of equipment not so prescribed, it was placed on the market and used before that date: Weights and Measures Act 1985 Sch 11 para 14(1). Measuring equipment measuring in square inches, cubic inches or cubic feet may continue to be used for trade if it was placed on the market and used before 1 December 1980: Sch 11 para 14(2). Nothing in Sch 11 para 14(1) is to be taken as authorising the continued use for trade of the grain, stone, quarter, hundredweight or ton, except in so far as the weight of the goods in those units or partly in those units is treated as having been made known to a prospective buyer by virtue of s 45(1)(a) (see PARA 115 *head* (1) *post*) and s 46 (see PARA 116 *post*): Sch 11 para 14(3). The provisions of Sch 11 para 14 appear to be in direct conflict with the requirements of EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) (see PARAS 5 *ante*, 47 *post*), and arguably in direct conflict with the requirements of the Weights and Measures Act 1985 s 8(1) which has not been made subject to Sch 11 (as amended). Schedule 11 para 14(1), (2) has effect notwithstanding the Units of Measurement Regulations 1978, SI 1978/484, reg 3 (revoked) (under which certain units were not authorised for use in certain circumstances on or after 27 April 1978) and the Units of Measurement Regulations 1980, SI 1980/1070, reg 8 (revoked) (under which certain units were not authorised for use in certain circumstances on or after 1 September 1980): Weights and Measures Act 1985 Sch 11 para 15.

Nothing in s 8 (as amended) prevents any unit of measurement being used for components and parts of products and of equipment necessary to supplement or replace components or parts of products and equipment referred to in Sch 11 para 13(1) or Sch 11 para 14(1) or (2): Sch 11 para 16(1). Nor does anything in the Units of Measurement Regulations 1978, SI 1978/484, reg 3 (revoked) or in the Units of Measurement Regulations 1980, SI 1980/1070, reg 8 (revoked) prevent any unit of measurement being used for components and parts of products and of equipment necessary to supplement or replace components or parts of products and equipment referred to in the Weights and Measures Act 1985 Sch 11 para 14(1) or (2): Sch 11 para 16(2).

Without prejudice to Sch 11 para 14, every pattern of weighing equipment: (1) the certificate of approval in respect of which was, or is deemed to have been, granted under the Weights and Measures Act 1963 s 12 (repealed) and was in force immediately before 1 December 1980; and (2) which provides for weighing to be made wholly or partly in grains, including a pattern modified in accordance with an authorisation of the Secretary of State granted or deemed to have been granted under s 12 (repealed) before 4 April 1979 and for the time being in force, continues to be deemed modified to the extent necessary to require equipment of that pattern to weigh in multiples or fractions of an ounce troy in substitution for grains or fractions thereof and to have its capacity expressed in ounces troy: Weights and Measures Act 1985 Sch 11 para 17(1), (2) (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 7(1), (4)).

3 For the meaning of 'ounce troy' see PARA 44 *ante*.

4 Weights and Measures Act 1985 s 8(2)(a). See also note 2 *supra*.

The Secretary of State may by order add to, vary or remove from the Weights and Measures Act 1985 s 8(2) (as amended) any restriction on the cases or circumstances in which, or the conditions subject to which, a unit of measurement, measure or weight may be used for trade or possessed for use for trade: s 8(6)(b). An order under s 8(6)(b) may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State expedient: s 8(7). In exercise of the power under s 8(6) the Secretary of State has made the Weights and Measures (Intoxicating Liquor) (Amendment) Order 1994, SI 1994/1883; the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866; and the Weights and Measures (Intoxicating Liquor) (Amendment) Order 2001, SI 2001/1322. As to the making of orders see PARA 3 *ante*. As to the Secretary of State see PARA 16 *ante*. See also note 2 *supra*.

- 5 For the meaning of 'carat (metric)' see PARA 44 ante.
- 6 Weights and Measures Act 1985 s 8(2)(b). See also notes 2, 4 supra.
- 7 For the meaning of 'millilitre' see PARA 43 ante.
- 8 Weights and Measures Act 1985 s 8(2)(c) (amended by the Weights and Measures (Intoxicating Liquor) (Amendment) Order 1994, SI 1994/1883, art 2(a); and the Weights and Measures (Intoxicating Liquor) (Amendment) Order 2001, SI 2001/1322, art 2(a)). 'Intoxicating liquor' means spirits, beer, wine, made-wine or cider as defined in the Alcoholic Liquor Duties Act 1979 s 1 (as amended) (see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 400 et seq); Weights and Measures Act 1985 s 94(1). See also notes 2, 4 supra.
- 9 For the meaning of 'pint' see PARA 43 ante.
- 10 Weights and Measures Act 1985 s 8(2)(d)(i) (s 8(2)(d)-(f) added by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(2)). See also notes 2, 4 supra, 11 infra.
- 11 Weights and Measures Act 1985 s 8(2)(d)(ii) (s 8(2)(d) as added: see note 10 supra). As to the meaning of 'container' see PARA 28 note 8 ante. See also note 4 supra.
- 12 'Contravention', in relation to any requirement, includes a failure to comply with that requirement; and cognate expressions are to be construed accordingly: *ibid* s 94(1).
- 13 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see *ibid* ss 8(4), 84(1), (2). As to the standard scale para 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.
- 14 *Ibid* ss 8(4), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 ante.
- 15 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 16 Weights and Measures Act 1985 s 8(5A) (added by the Units of Measurement Regulations 1994, SI 1994/2867, reg 5(1), (2); and amended by the Units of Measurement Regulations 2001, SI 2001/55, reg 3). 'Supplementary indication' refers to an additional indication other than one expressed in a metric unit; as to particular permitted supplementary indications see PARAS 51-55 post.
- 17 Weights and Measures Act 1985 s 8(5A)(a) (as added: see note 16 supra); s 8(8).
- 18 *Ibid* s 8(5A)(b) (as added: see note 16 supra).
- 19 *Ibid* s 8(5A)(c) (as added: see note 16 supra).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

46 Units of measurement lawful for use for trade

TEXT AND NOTE 16--The time limit of the 31 December 2009 no longer applies: 1985 Act s 8(5A) (further amended by SI 2009/3046).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/A. IN GENERAL/47. SI units.

47. SI units.

The Units of Measurement Regulations 1986¹ prescribe:

- 133 (1) the units of measurement forming part of the International System of Units ('SI units') which are authorised for use in the specified circumstances² and the prefixes and symbols for use in conjunction with those units³;
- 134 (2) the units of measurement which are not authorised for use in the specified circumstances on and after 1 October 1995 except as supplementary indications⁴;
- 135 (3) the units of measurement which are, together with their symbols and abbreviations, authorised for use on and after 1 October 1995, but before 1 January 2000, in the specified fields of application⁵; and
- 136 (4) the units of measurement which are, together with their symbols and abbreviations, authorised for use on and after 1 October 1995 in the specified fields of application⁶.

1 The Units of Measurement Regulations 1986, SI 1986/1082 (as amended), which implement EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) (see PARA 5 ante).

2 As to the specified circumstances see PARA 39 note 4 ante.

3 See the Units of Measurement Regulations 1986, SI 1986/1082, Pt II (regs 3-6), Schs 1, 2 (amended by SI 2001/55). Note that the regulations authorise the use of SI units, but do not appear to make the use of such units obligatory: see the Units of Measurement Regulations 1986, SI 1986/1082, reg 3.

4 See *ibid* reg 12, Sch 3 Pt IV (added by SI 1994/2867).

5 See the Units of Measurement Regulations 1986, SI 1986/1082, reg 13, Sch 3A (added by SI 1994/2867).

6 See the Units of Measurement Regulations 1986, SI 1986/1082, reg 14, Sch 3B (added by SI 1994/2867).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/A. IN GENERAL/48. Multiples and fractions of measures and units.

48. Multiples and fractions of measures and units.

Except as may be prescribed¹, and subject to any regulations made in relation to weighing or measuring for trade²:

- 137 (1) a linear measure³ may be marked in whole or in part with divisions and subdivisions representing any shorter length or lengths⁴; but
- 138 (2) no capacity measure⁵ may be used for trade by means of any division or subdivision marked on it as a capacity measure for any lesser quantity⁶.

Any person who contravenes⁷ head (2) above is guilty of an offence and liable to a penalty⁸, and any measure used, or in any person's possession for use, in contravention thereof, is liable to be forfeited⁹.

The Secretary of State may by regulations prescribe what may be treated for the purposes of use for trade¹⁰ as the equivalent of, or of any multiple or fraction of, any unit of measurement¹¹ in terms of any other unit¹²; but nothing in any such regulations may apply to any transaction in drugs¹³.

1 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante. As to the Secretary of State see PARA 16 ante.

2 Ie regulations made under ibid s 15: see PARA 67 post.

3 Ie a linear measure specified in ibid s 8(1), Sch 3 Pt I (as amended): see PARA 77 head (1) post.

4 Ibid s 10(1)(a).

5 Ie no capacity measure specified in ibid Sch 3 Pt IV (as amended): see PARA 77 head (4) post.

6 Ibid s 10(1)(b). See the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735 (amended by SI 2001/85; SI 2001/599; SI 2003/214).

7 As to the meaning of 'contravene' see PARA 46 note 12 ante.

8 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see the Weights and Measures Act 1985 ss 10(2), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

9 Ibid ss 10(2), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 ante.

10 For the meaning of 'use for trade' see PARA 66 post.

11 Ie any unit of measurement included in the Weights and Measures Act 1985 Sch 1 (as amended): see PARA 40 et seq ante.

12 Ibid s 10(3).

13 Ibid s 10(4). For the meaning of 'drugs' see PARA 46 note 2 ante. Regulations having effect notwithstanding anything in, or in any instrument made under, any other enactment may: (1) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any specified unit of measurement which is included in Sch 1 (as amended) or was included in the Weights and Measures Act 1963 s 1(1), (2), Sch 1 (repealed) on 31 January 1964 (ie the date of the commencement of s 10 (repealed)), in terms of any other such unit; and (2) require that any person carrying out any such dealing with drugs as is specified in the regulations for the purposes of which the quantity of the drugs is expressed in terms of any such unit which is so specified is to carry out that dealing in terms of such equivalent quantity prescribed under head (1) supra as is so specified: Weights and Measures Act 1985 s 10(5). At the date at which this volume states the law no such regulations had been made under s 10(5) but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures (Equivalents for Dealings with Drugs) Regulations 1970, SI 1970/1897 (amended by SI 1976/1664) have effect as if so made: see PARA 50 post.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

48 Multiples and fractions of measures and units

NOTE 6--SI 1995/735 further amended: SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/A. IN GENERAL/49. Units in wholesale transactions.

49. Units in wholesale transactions.

Except as the Secretary of State¹ may by order otherwise provide, nothing in the Weights and Measures Act 1985 makes unlawful the use in any transaction, by agreement between the parties to that transaction, of any unit of measurement which:

- 139 (1) was customarily used for trade² in the like transactions immediately before 31 July 1963³; and
- 140 (2) is not inconsistent with anything for the time being contained in the definitions of units of measurements⁴,

notwithstanding that the unit in question is not included in the definitions⁵ of measurements of length, area, volume, capacity and mass or weight⁶.

These provisions do not apply in relation to any retail transaction or any transaction with respect to which provision to the contrary effect is made by or under the provisions⁷ relating to the regulation of transactions in goods⁸.

1 As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'use for trade' see PARA 66 post.

3 Weights and Measures Act 1985 s 89(1)(a). The date referred to is the date on which the Weights and Measures Act 1963 (repealed) was passed.

4 Weights and Measures Act 1985 s 89(1)(b). The reference is to anything for the time being contained in s 1(2), Sch 1 (as amended): see PARA 40 et seq ante.

5 Ie not included in ibid Sch 1 Pts I-V (as amended): see PARAS 40-44 ante.

6 Ibid s 89(1). At the date at which this volume states the law, no such order had been made and none has effect as if so made. As to the making of orders see PARA 3 ante.

7 Ie ibid Pt IV (ss 21-46) (as amended): see PARA 105 et seq post.

8 Ibid s 89(2). This provision appears to be in direct conflict with the requirements of EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) (see PARAS 5, 47 ante), which is not limited in its application to retail transactions. However, the regulations implementing this Directive appear to be permissive rather than obligatory: see PARA 47 ante.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/A. IN GENERAL/50. Equivalentents for dealing with drugs.

50. Equivalentents for dealing with drugs.

The Weights and Measures (Equivalentents for Dealings with Drugs) Regulations 1970¹ prescribe, in relation to drugs:

- 141 (1) equivalentents for weights and volumes of ingredients²;
- 142 (2) equivalentents for weights and volumes of total quantities³;
- 143 (3) equivalentents for weights and volumes prescribed by referring to specified monographs⁴;
- 144 (4) equivalentents for doses of liquids⁵;
- 145 (5) equivalentents for total quantities in respect of prescriptions stating dose quantities⁶; and
- 146 (6) the control of their sale and supply⁷.

¹ See the Weights and Measures (Equivalentents for Dealings with Drugs) Regulations 1970, SI 1970/1897 (as amended). As to the power to make regulations prescribing equivalentents for the purpose of dealings with drugs see PARA 48 note 13 ante.

² See the Weights and Measures (Equivalentents for Dealings with Drugs) Regulations 1970, SI 1970/1897, reg 4, Schedule.

³ See *ibid* reg 5.

⁴ See *ibid* reg 6.

⁵ See *ibid* reg 7.

⁶ See *ibid* reg 8.

⁷ See *ibid* reg 9.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS/51. Units of length.

B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS

51. Units of length.

The following measurements of length are lawful for use for trade¹ only as supplementary indications²:

- 147 (1) the mile, which is equal to 1,760 yards;
- 148 (2) the furlong, which is equal to 220 yards;
- 149 (3) the chain, which is equal to 22 yards;
- 150 (4) the yard, which is equal to 0.9144 metre;
- 151 (5) the foot, which is equal to one-third of a yard;
- 152 (6) the inch, which is equal to one thirty-sixth of a yard³.

1 For the meaning of 'use for trade' see PARA 66 post.

2 For the meaning of 'supplementary indication' see PARA 46 ante.

3 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VI (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(c), Schedule).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS/52. Measurements of area.

52. Measurements of area.

The following measurements of area are lawful for use for trade¹ only as supplementary indications²:

- 153 (1) the square mile, which is equal to 640 acres;
- 154 (2) the acre, which is equal to 4,840 square yards;
- 155 (3) the rood, which is equal to 1,210 square yards;
- 156 (4) the square yard, which is equal to a superficial area equal to that of a square each side of which measures one yard;
- 157 (5) the square foot, which is equal to one-ninth of a square yard;
- 158 (6) the square inch, which is equal to 1/144 square foot³.

1 For the meaning of 'use for trade' see PARA 66 post.

2 For the meaning of 'supplementary indication' see PARA 46 ante.

3 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VI (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(c), Schedule).

UPDATE**39-65 Units and Standards of Measurement**

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS/53. Measurements of volume.

53. Measurements of volume.

The following measurements of volume are lawful for use for trade¹ only as supplementary indications²:

- 159 (1) the cubic yard, which equals a volume equal to that of a cube each edge of which measures one yard;
- 160 (2) the cubic foot, which equals one twenty-seventh of a cubic yard;
- 161 (3) the cubic inch, which equals 1/1728 cubic foot³.

1 For the meaning of 'use for trade' see PARA 66 post.

2 For the meaning of 'supplementary indication' see PARA 46 ante.

3 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VI (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(c), Schedule).

UPDATE**39-65 Units and Standards of Measurement**

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS/54. Measurements of capacity.

54. Measurements of capacity.

The following measurements of capacity are lawful for use for trade¹ only as supplementary indications²:

- 162 (1) the bushel, which is equal to eight gallons;

- 163 (2) the peck, which is equal to two gallons;
- 164 (3) the gallon, which is equal to 4.546 09 cubic decimetres;
- 165 (4) the quart, which is equal to one-quarter of a gallon;
- 166 (5) the gill, which is equal to one-quarter of a pint;
- 167 (6) the fluid ounce, which is equal to one-twentieth of a pint;
- 168 (7) the fluid drachm, which is equal to one-eighth of a fluid ounce;
- 169 (8) the minim, which is equal to one-sixtieth of a fluid drachm³.

1 For the meaning of 'use for trade' see PARA 66 post.

2 For the meaning of 'supplementary indication' see PARA 46 ante.

3 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VI (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(c), Schedule; and amended by reg 7(1), (3)(c)(i)).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/B. UNITS OF MEASUREMENT WHICH MAY NOT BE USED FOR TRADE EXCEPT AS SUPPLEMENTARY INDICATIONS/55. Measurements of mass or weight.

55. Measurements of mass or weight.

The following measurements of mass or weight are lawful for use for trade¹ only as supplementary indications²:

- 170 (1) the ton, which equals 2,240 pounds;
- 171 (2) the hundredweight, which equals 112 pounds;
- 172 (3) the cental, which equals 100 pounds;
- 173 (4) the quarter, which equals 28 pounds;
- 174 (5) the stone, which equals 14 pounds;
- 175 (6) the pound, which equals 0.45359237 kilogram;
- 176 (7) the ounce, which equals one-sixteenth of a pound;
- 177 (8) the dram, which equals one-sixteenth of an ounce;
- 178 (9) the grain, which equals 1/7000 pound;
- 179 (10) the pennyweight, which equals 24 grains;
- 180 (11) the ounce apothecaries, which equals 480 grains;
- 181 (12) the drachm, which equals one-eighth of an ounce apothecaries;
- 182 (13) the scruple, which equals one-third of a drachm;
- 183 (14) the metric ton, which equals 1,000 kilograms;
- 184 (15) the quintal, which equals 100 kilograms³.

1 For the meaning of 'use for trade' see PARA 66 post.

2 For the meaning of 'supplementary indication' see PARA 46 ante.

3 Weights and Measures Act 1985 s 1(2), Sch 1 Pt VI (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (5)(c), Schedule; and amended by reg 7(1), (3)(c)(ii)). See *Thoburn v Sunderland City Council* [2002] EWHC 195 (Admin), [2003] QB 151, [2002] 4 All ER 156, in regard to offences arising out of the failure to use metric weights as a primary indicator of weight for the sale of goods loose from bulk or from failure to display such goods by reference to a kilogram weight under the Weights and Measures Act 1985 s 1 (as amended) (see PARA 39 note 4 ante).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/C. ABBREVIATIONS OF, OR SYMBOLS FOR, UNITS OF MEASUREMENT/56. Abbreviations and symbols.

C. ABBREVIATIONS OF, OR SYMBOLS FOR, UNITS OF MEASUREMENT

56. Abbreviations and symbols.

The Secretary of State¹ may make regulations with respect to the abbreviations of, or symbols for, units of measurement which may be used for trade².

As respects the use for trade, other than for the purpose of marking weighing or measuring equipment³, of abbreviations of, or symbols for, units of measurement, only the prescribed symbols may be used to indicate the relevant unit of measurement⁴.

The units of measurement and their respective symbols, shown in parentheses, are: metre (m); centimetre (cm); millimetre (mm); square metre (m²); square decimetre (dm²); square centimetre (cm²); cubic metre (m³); cubic centimetre (cm³); litre (l or L); decilitre (dl or dL); centilitre (cl or cL); millilitre (ml or mL); tonne (t); kilogram (kg); hectogram (hg); gram (g); and milligram (mg)⁵.

Where the pint is used in connection with returnable containers for milk or the dispense of draught beer or cider, the abbreviation 'pt' may be used and the letter 's' may be added, where appropriate, to indicate the plural⁶.

1 As to the Secretary of State see PARA 16 ante.

2 Weights and Measures Act 1985 s 15(1)(f). For the meaning of 'use for trade' see PARA 66 post. In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, Pt III (regs 10, 11) (as amended), Sch 3. As to the making of regulations see PARA 3 ante.

3 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

4 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, regs 10, 11(1) (reg 11 substituted by SI 1994/1852).

5 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 11(1), Sch 3 (reg 11(1) as substituted: see note 4 supra).

6 Ibid reg 11(2) (as substituted: see note 4 supra).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/(1) UNITS OF MEASUREMENT/ (ii) Use for Trade, etc/D. DUAL MARKING AND CONVERSION CHARTS/57. Regulations relating to dual marking and conversion charts.

D. DUAL MARKING AND CONVERSION CHARTS

57. Regulations relating to dual marking and conversion charts.

The Secretary of State¹ may make regulations:

- 185 (1) requiring or authorising a person who uses a metric unit² for trade³ to afford, for explanatory purposes, information giving the equivalent in the imperial system of the relevant quantity in the metric system⁴; and
- 186 (2) specifying the manner in which the information is to be given, and in particular specifying the cases in which any obligation to give information in metric units is to be extended to include the same information in imperial units⁵.

The Secretary of State may make regulations requiring or authorising the display on premises⁶ where metric units are used for trade of conversion tables or other material for converting metric units into imperial units⁷.

Regulations under these provisions may:

- 187 (a) prescribe the form and manner in which any information or other material is to be given or displayed⁸;
- 188 (b) prescribe appropriate conversion factors by reference to which, in prescribed cases or circumstances, an amount expressed in imperial units is to be treated as equivalent to a given amount expressed in metric units⁹;
- 189 (c) prescribe the persons to whom, and the cases and circumstances in which, the regulations apply and may make different provision for different persons, cases or circumstances¹⁰;
- 190 (d) contain such consequential, incidental or supplementary provisions as appear to the Secretary of State to be expedient¹¹.

A person contravening regulations made under these provisions is guilty of an offence and liable to a penalty¹².

Regulations under these provisions imposing obligations apply whether or not the relevant imperial unit may lawfully be used for trade; and regulations authorising, but not requiring, anything to be done authorise it to be done notwithstanding that the relevant imperial unit may not be lawfully used for trade, but do not in any other respect authorise what is unlawful¹³.

- 1 As to the Secretary of State see PARA 16 ante.
- 2 For these purposes, 'unit' in the expressions 'metric unit' and 'imperial unit' means any unit of measurement of length, area, volume, capacity, mass or weight: Weights and Measures Act 1985 s 9(5).
- 3 For the meaning of 'use for trade' see PARA 66 post.
- 4 Weights and Measures Act 1985 s 9(1)(a).
- 5 Ibid s 9(1)(b). At the date at which this volume states the law, no regulations had been so made and none have effect as if so made. As to the making of regulations generally see PARA 3 ante.
- 6 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 7 Weights and Measures Act 1985 s 9(2).
- 8 Ibid s 9(3)(a).
- 9 Ibid s 9(3)(b).
- 10 Ibid s 9(3)(c).
- 11 Ibid s 9(3)(d).
- 12 Ibid ss 9(4), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 9(4), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.
- 13 Ibid s 9(6).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/58. Primary standards and copies of the primary standards.

(2) STANDARDS OF MEASUREMENT

58. Primary standards and copies of the primary standards.

The Secretary of State¹ must cause standards of the yard², pound³, metre⁴ and kilogram⁵ to be maintained, which are the standards ('United Kingdom primary standards') by reference to which, in the United Kingdom⁶, all other standards of those units and of any other unit of measurement derived wholly or partly from any of those units are to be maintained⁷.

The primary standards consist of specially designed metal bars in the case of the yard⁸ and the metre⁹ and of specially designed metal cylinders in the case of the pound¹⁰ and the kilogram¹¹.

1 As to the Secretary of State see PARA 16 ante.

- 2 For the meaning of 'yard' see PARA 39 ante.
- 3 For the meaning of 'pound' see PARAS 39, 44 ante.
- 4 For the meaning of 'metre' see PARA 40 ante.
- 5 For the meaning of 'kilogram' see PARA 44 ante.
- 6 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.
- 7 Weights and Measures Act 1985 ss 2(1), 94(1).
- 8 As to the United Kingdom primary standard of the yard see *ibid* s 2(3)(a), Sch 2 Pt I.
- 9 As to the United Kingdom primary standard of the metre see *ibid* s 2(3)(c), Sch 2 Pt III.
- 10 As to the United Kingdom primary standard of the pound see *ibid* s 2(3)(b), Sch 2 Pt II.
- 11 As to the United Kingdom primary standard of the kilogram see *ibid* s 2(3)(d), Sch 2 Pt IV.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/59. Determination of United Kingdom primary standards.

59. Determination of United Kingdom primary standards.

The Secretary of State¹ must from time to time as may appear to him expedient cause:

- 191 (1) the value of each of the United Kingdom primary standards² to be determined or redetermined³; and
- 192 (2) any authorised copy of any of those standards to be compared with, and its value determined or redetermined by reference to, that standard⁴,

in such manner as he may direct⁵.

- 1 As to the Secretary of State see PARA 16 ante.
- 2 For the meaning of 'United Kingdom primary standards' see PARA 58 ante.
- 3 Weights and Measures Act 1985 s 2(2)(a).
- 4 *Ibid* s 2(2)(b).
- 5 *Ibid* s 2(2).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/60. Authorised copies of United Kingdom primary standards.

60. Authorised copies of United Kingdom primary standards.

Certain copies of the primary standards¹ of the yard² and the pound³ which are deposited at the Royal Mint, at the premises of the Royal Society, at the Royal Greenwich Observatory, at the Palace of Westminster and the National Weights and Measures Laboratory are authorised copies of the primary standards⁴.

1 For the meaning of 'United Kingdom primary standards' see PARA 58 ante.

2 For the meaning of 'yard' see PARA 39 ante.

3 For the meaning of 'pound' see PARAS 39, 44 ante.

4 See the Weights and Measures Act 1985 s 2(4), Sch 2 Pt V.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

60 Authorised copies of United Kingdom primary standards

NOTE 4--Weights and Measures Act 1985 Sch 2 Pt 5 amended: SI 2009/2748.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/61. Secondary, tertiary and coinage standards.

61. Secondary, tertiary and coinage standards.

The Secretary of State¹ must maintain secondary, tertiary and coinage standards in accordance with the following provisions, which are known collectively as the 'Department of Trade and Industry standards'².

The secondary standards consist of standards of all the specified measures and weights³ other than capacity measures of more than eight pints or ten litres; and any such standard must be constructed and, while it remains in use, from time to time at intervals not exceeding five years

have its value or values redetermined, by reference to such one or more of the United Kingdom primary standards⁴ or any authorised copies of those standards⁵ as may appear to the Secretary of State to be appropriate⁶.

The tertiary standards consist of such standards of such of the specified measures or weights⁷ as may from time to time appear to the Secretary of State to be necessary or expedient; and any such standard must be constructed and, while it remains in use, from time to time at intervals not exceeding two years have its value or values redetermined, by reference to such one or more of the secondary standards as may appear to the Secretary of State to be appropriate⁸.

The coinage standards consist of such standards of the weight of each coin of the realm for the time being authorised by or under the enactments relating to the coinage as may from time to time appear to the Secretary of State to be necessary or expedient; and any such standard must be constructed and, while it remains in use, from time to time at intervals not exceeding two years have its value redetermined, by reference to such one or more of the secondary standards as may appear to the Secretary of State to be appropriate⁹.

Department of Trade and Industry standards must be provided or replaced by the Secretary of State from time to time as may appear to him necessary or expedient and must be in such form and of such material, and be kept under his control at such place or places, as he may think fit¹⁰.

A secondary or tertiary standard of any linear or capacity measure may:

- 193 (1) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure¹¹; and
- 194 (2) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings¹²,

as the Secretary of State thinks fit¹³.

1 As to the Secretary of State see PARA 16 ante.

2 Weights and Measures Act 1985 ss 3(1), 94(1). Any standard which immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985) was deemed by virtue of the Weights and Measures Act 1963 s 3(6) (repealed) to be a secondary, tertiary or coinage standard provided under s 3 (repealed) is deemed to be a secondary, tertiary or coinage standard, as the case may be, for the purpose of the Weights and Measures Act 1985: s 96(1), Sch 11 para 8. The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

3 Ie all the measures set out in *ibid* s 8(1), Sch 3 Pts I, IV (as amended) (see PARA 77 heads (1), (4) post) and all the weights set out in Sch 3 Pt V (as amended) (see PARA 77 head (5) post).

4 For the meaning of 'United Kingdom primary standards' see PARA 58 ante.

5 As to authorised copies see PARA 60 ante.

6 Weights and Measures Act 1985 s 3(2) (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (3)); Weights and Measures Act 1985 s 94(1).

7 Ie the measures or weights set out in *ibid* Sch 3 Pts I, IV (as amended) (see PARA 77 heads (1), (4) post) and Sch 3 Pt V (see PARA 77 head (5) post).

8 *Ibid* ss 3(3), 94(1).

9 *Ibid* s 3(4). As to Her Majesty's power by Order in Council to regulate coinage by proclamation see the Coinage Act 1971 s 3 (as amended); as to the standard weight and fineness of coins see s 1 (as substituted); as

to standard trial plates see s 6 (as amended); as to copies of standard weights see s 7; and see FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARA 1286.

10 Weights and Measures Act 1985 s 3(5).

11 Ibid s 3(6)(a).

12 Ibid s 3(6)(b).

13 Ibid s 3(6).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

61 Secondary, tertiary and coinage standards

TEXT AND NOTES 2, 9--Weights and Measures Act 1985 ss 3(1), (5), 94 amended: SI 2009/2748.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/62. Provision of local standards.

62. Provision of local standards.

There must be maintained by each local weights and measures authority¹ such standards ('local standards') of such of the specified measures and weights² as the Secretary of State³ may from time to time approve or require in the case of that authority as being proper and sufficient for the purposes of the Weights and Measures Act 1985⁴.

Local standards must:

- 195 (1) be provided and replaced by the local weights and measures authority from time to time as may appear to the authority to be necessary or expedient or as the Secretary of State may require⁵;
- 196 (2) be of material and form approved by the Secretary of State⁶;
- 197 (3) be kept in such manner and under such conditions as the Secretary of State may direct at premises⁷ provided by the authority⁸; and
- 198 (4) not be used elsewhere than at those premises or at other premises which appear to the authority to be appropriate⁹.

A local standard of any linear or capacity measure must:

- 199 (a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure¹⁰; and
- 200 (b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings¹¹,

as the Secretary of State may from time to time direct¹².

No article may be used as a local standard unless there is for the time being in force a certificate of its fitness¹³ for the purpose issued by the Secretary of State¹⁴.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 The weights and measures set out in the Weights and Measures Act 1985 s 8(1), Sch 3 (as amended): see PARA 77 ante. See also PARA 46 ante.

3 As to the Secretary of State see PARA 16 ante.

4 Weights and Measures Act 1985 ss 4(1), 94(1). The authority's chief inspector of weights and measures is responsible for the custody and maintenance of the local standards: see s 72(3); and PARA 23 post.

5 Ibid s 4(2)(a).

6 Ibid s 4(2)(b).

7 As to the meaning of 'premises' see PARA 27 note 5 ante.

8 Weights and Measures Act 1985 s 4(2)(c).

9 Ibid s 4(2)(d).

10 Ibid s 4(3)(a).

11 Ibid s 4(3)(b).

12 Ibid s 4(3).

13 As to certificates of fitness see PARA 63 post.

14 Weights and Measures Act 1985 s 4(4).

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/63. Verification of local standards.

63. Verification of local standards.

The Secretary of State¹ must cause any article submitted to him for certification² to be compared with such one or more of the tertiary standards³ as may appear to him to be appropriate and, if it falls within the prescribed⁴ limits of error and satisfies any other requirements of the Secretary of State, he must issue a certificate of its fitness for use as a local standard⁵ which, if the authority so requests, must include a statement of the amount of any error in it⁶. A certificate so issued ceases to be in force⁷ at the end of the prescribed period⁸. The Secretary of State must keep a record of all certificates so issued⁹.

Any such comparison of an article with the tertiary standards must be carried out:

- 201 (1) if the article is not for the time being a local standard, at such place as the Secretary of State may direct¹⁰; or
- 202 (2) if the article is for the time being a local standard, at the premises¹¹ where it is kept or at other premises approved in that behalf by the Secretary of State¹².

The Secretary of State may charge on any occasion on which an article is submitted to him for certification such fee as he may from time to time with the approval of the Treasury determine¹³.

1 As to the Secretary of State see PARA 16 ante.

2 Ie under the Weights and Measures Act 1985 s 4; see PARA 62 ante.

3 For the meaning of 'tertiary standards' see PARA 61 ante.

4 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Local and Working Standard Linear Measures) Regulations 1986, SI 1986/1684 (amended by SI 1994/1851); the Weights and Measures (Local and Working Standard Weights and Testing Equipment) Regulations 1986, SI 1986/1685 (amended by SI 1991/1775; SI 1994/1851); and the Weights and Measures (Local and Working Standard Capacity Measures and Testing Equipment) Regulations 1990, SI 1990/2626 (amended by SI 1994/1259; SI 1994/1851; SI 1995/735; SI 2001/599; SI 2003/214). As to the making of regulations generally see PARA 3 ante.

5 For the meaning of 'local standards' see PARA 62 ante.

6 Weights and Measures Act 1985 s 4(5).

7 Ie subject to ibid s 96(1), Sch 11 para 9. A certificate of fitness for use as a local standard issued under the Weights and Measures Act 1963 s 4(4) (repealed) which was in force both on 4 October 1979 and immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985) ceased to be in force at the expiration of the period of ten years from the date of issue of the certificate: Sch 11 para 9. The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

8 Ibid s 4(6).

9 Ibid s 4(7).

10 Ibid s 4(8)(a).

11 As to the meaning of 'premises' see PARA 27 note 5 ante.

12 Weights and Measures Act 1985 s 4(8)(b).

13 Ibid s 4(9). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/64. Working standards, testing and stamping equipment.

64. Working standards, testing and stamping equipment.

Each local weights and measures authority¹ must provide for use by the inspectors² appointed for the authority's area, and maintain or from time to time replace:

- 203 (1) such standards ('working standards') of such of the measures and weights as are lawful for use for trade³;
- 204 (2) such testing equipment⁴; and
- 205 (3) such stamping equipment⁵,

as are proper and sufficient for the efficient discharge by those inspectors of their functions in the authority's area⁶. Working standards and testing and stamping equipment so provided must be of material and form approved by the Secretary of State⁷.

An authority may:

- 206 (a) provide a particular working standard or item of equipment as so required by making arrangements with another person for the standard or item to be made available by him⁸; and
- 207 (b) make arrangements with another person for standards or equipment so provided by the authority, except stamping equipment, to be made available to the other person⁹.

If a local weights and measures authority is of opinion:

- 208 (i) that any particular description of testing equipment is proper and sufficient for the efficient discharge of the functions of the inspectors appointed for the authority's area¹⁰; but
- 209 (ii) that, having regard to the expenditure involved and the frequency with which such equipment is likely to be used by those inspectors, it would not be reasonable for the authority to provide and maintain such equipment¹¹,

the authority may request the Secretary of State to provide and maintain such equipment and to make it available for hire to the authority¹². The terms of such hire of equipment must be such as the Secretary of State may determine¹³.

Except so far as may be necessary for the purposes of their use elsewhere, working standards and testing and stamping equipment must be kept at premises¹⁴ provided by the local weights and measures authority, except in the case of things which are the subject of arrangements under head (a) above¹⁵.

A working standard of a linear or capacity measure must:

- 210 (A) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure¹⁶; and
- 211 (B) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings¹⁷,

as the Secretary of State may from time to time direct¹⁸.

The Secretary of State must by regulations make provision for working standards to be from time to time tested by comparison with, and, if necessary, adjusted to within such limits of error as may be specified in the regulations by reference to, the local standards¹⁹ or other working standards more recently tested, and with respect to the testing, adjustment and limits of error of testing equipment duly provided²⁰.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

3 Weights and Measures Act 1985 ss 5(1)(a), 94(1). As to the lawful measures and weights see s 8(1), Sch 3 (as amended); and PARAS 46 ante, 77 post. No article may be used by an inspector as a working standard or as testing equipment provided under s 5(1) unless the relevant requirements of regulations under s 5(9) (see the text and note 20 infra) are for the time being satisfied with respect to it: s 5(10).

4 Ibid s 5(1)(b). 'Testing equipment' means testing equipment maintained under s 5: s 94(1). See also note 3 supra.

5 Ibid s 5(1)(c).

6 Ibid s 5(1).

7 Ibid s 5(5). As to the Secretary of State see PARA 16 ante.

8 Ibid s 5(2)(a). Nothing in s 5(2) prejudices the operation of the Local Authorities (Goods and Services) Act 1970 (Weights and Measures Act 1985 s 5(11)(a)); the Local Government Act 1972 s 101 (as amended) (Weights and Measures Act 1985 s 5(11)(b)); or the Local Government Act 2000 ss 14-16 or any regulations made under ss 17-20 (Weights and Measures Act 1985 s 5(11)(d) (added in relation to England by the Local Authorities (Executive and Alternative Arrangements) Modification of Enactments and Other Provisions) (England) Order 2001, SI 2001/2237, arts 1(2), 2(f), 14; and added in relation to Wales by the Local Authorities (Executive and Alternative Arrangements) Modification of Enactments and Other Provisions) (Wales) Order 2002, SI 2002/808, arts 2(e), 13). These provisions among other things enable a local authority to arrange for the provision of goods and services and the discharge of its functions by another local authority: see LOCAL GOVERNMENT vol 69 (2009) PARA 328.

9 Weights and Measures Act 1985 s 5(2)(b). See note 8 supra.

10 Ibid s 5(3)(a).

11 Ibid s 5(3)(b).

12 Ibid s 5(3).

13 Ibid s 5(4).

14 As to the meaning of 'premises' see PARA 27 note 5 ante.

15 Weights and Measures Act 1985 s 5(6), (7).

16 Ibid s 5(8)(a).

17 Ibid s 5(8)(b).

18 Ibid s 5(8).

19 For the meaning of 'local standards' see PARA 62 ante.

20 Weights and Measures Act 1985 s 5(9). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Local and Working Standard Linear Measures) Regulations 1986, SI 1986/1684 (amended by SI 1994/1851); the Weights and Measures (Local and Working Standard Weights and Testing Equipment) Regulations 1986, SI 1986/1685 (amended by SI 1991/1775; SI 1994/1851); and the Weights and Measures (Local and Working Standard Capacity Measures and Testing Equipment) Regulations

1990, SI 1990/2626 (amended by SI 1994/1259; SI 1994/1851; SI 1995/735; SI 2001/599; SI 2003/214). As to the making of regulations see PARA 3 ante.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/3. UNITS AND STANDARDS OF MEASUREMENT/ (2) STANDARDS OF MEASUREMENT/65. Testing of other standards and equipment.

65. Testing of other standards and equipment.

The Secretary of State¹ may, if he thinks fit, on the application of any government or person, accept for testing as to accuracy or compliance with any specification and for report:

- 212 (1) any article used or proposed to be used as a standard of a unit of measurement of mass, length, capacity, area or volume, or as a standard of the weight of any coin²;
- 213 (2) any weighing or measuring equipment³;
- 214 (3) any other metrological equipment⁴; and
- 215 (4) any article for use in connection with equipment mentioned in head (2) or head (3) above⁵,

submitted by that government or person for the purpose at such place as the Secretary of State may direct⁶.

The Secretary of State may charge, in respect of any article or equipment so accepted by him, a fee of an amount ascertained in such manner as he may determine with the approval of the Treasury⁷.

1 As to the Secretary of State see PARA 16 ante.

2 Weights and Measures Act 1985 s 6(1)(a).

3 Ibid s 6(1)(b). For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

4 Ibid s 6(1)(c).

5 Ibid s 6(1)(d).

6 Ibid s 6(1).

7 Ibid s 6(2). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

UPDATE

39-65 Units and Standards of Measurement

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(1) IN GENERAL/66. Meaning of 'use for trade'.

4. EQUIPMENT FOR USE FOR TRADE

(1) IN GENERAL

66. Meaning of 'use for trade'.

'Use for trade' means use¹ in Great Britain² in connection with, or with a view to, a transaction for the transferring or rendering of money or money's worth in consideration of money or money's worth or the making of a payment in respect of any toll or duty³ where:

- 216 (1) the transaction is by reference to quantity or is a transaction for the purposes of which there is made or implied a statement of the quantity of goods to which the transaction relates⁴; and
- 217 (2) the use is for the purpose of the determination or statement of that quantity⁵.

Use for trade does not include use in a case where:

- 218 (a) the determination or statement is a determination or statement of the quantity of goods required for dispatch to a destination outside Great Britain and any designated country⁶; and
- 219 (b) the transaction is not a sale by retail⁷; and
- 220 (c) no transfer or rendering of money or money's worth is involved other than the passing of the title to the goods and the consideration for them⁸.

The following equipment, that is to say:

- 221 (i) any weighing or measuring equipment⁹ which is made available in Great Britain for use by the public¹⁰, whether on payment or otherwise¹¹; and
- 222 (ii) any equipment which is used in Great Britain for the grading by reference to their weight, for the purposes of trading transactions by reference to that grading, of hens' eggs in shell which are intended for human consumption¹²,

is to be treated as weighing or measuring equipment in use for trade, whether or not it would otherwise be so treated¹³.

Where any weighing or measuring equipment is found in the possession of any person carrying on trade or on any premises¹⁴ which are used for trade, that person or, as the case may be, the occupier¹⁵ of those premises is deemed, unless the contrary is proved, to have that equipment in his possession for use for trade¹⁶.

¹ 'Use' includes causing or permitting use: *FE Charman Ltd v Clow* [1974] 3 All ER 371, [1974] 1 WLR 1384, DC.

² For the meaning of 'Great Britain' see PARA 16 note 11 ante.

3 Weights and Measures Act 1985 s 7(2).

4 Ibid ss 7(1)(a), 94(1).

5 Ibid ss 7(1)(b), 94(1).

6 Ibid s 7(3)(a). 'Designated country' means such, if any, of the following, that is to say, Northern Ireland, any of the Channel Islands and the Isle of Man, as the Secretary of State, having regard to the law for the time being in force there, thinks it proper to designate for the purposes of that provision by order: s 94(2). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Isle of Man) Order 1992, SI 1992/1591 (amended by SI 2000/3236); the Weights and Measures (Jersey) Order 1992, SI 1992/1592 (amended by SI 2000/3236); the Weights and Measures (Northern Ireland) Order 1992, SI 1992/1593 (amended by SI 2000/3236); and the Weights and Measures (Guernsey and Alderney) Order 1995, SI 1995/1011 (amended by SI 2000/3236). As to the Secretary of State see PARA 16 ante.

7 Weights and Measures Act 1985 s 7(3)(b).

8 Ibid s 7(3)(c).

9 For meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

10 For the meaning of 'public' see PARA 100 note 3 post.

11 Weights and Measures Act 1985 s 7(4)(a).

12 Ibid s 7(4)(b).

13 Ibid s 7(4).

14 As to the meaning of 'premises' see PARA 27 note 5 ante.

15 For the meaning of 'occupier' see PARA 27 note 16 ante.

16 Weights and Measures Act 1985 s 7(5). The use of weighing equipment by buyers to check the weight of goods supplied to them constitutes 'use for trade': *Crick v Theobald* (1895) 64 LJMC 216, 72 LT 807; *Painter v Seers* (1875) 40 JP 549; *Horder v Roberts & Co* (1880) 44 JP 256. There must be a reference to quantity in a contract of sale for there to be 'use for trade': *Craig v McPhee* (1883) 48 JP 115; *Ross v Johnston* (1886) 23 SLR 695; *Harris v LCC* [1895] 1 QB 240; *Bellamy v Great Western and Metropolitan Dairies Ltd* (1908) 98 LT 757; *Robinson v Golding* (1910) 103 LT 248. The use of the equipment must be active, especially where 'possession for use for trade' is concerned: *Griffiths v Place* (1869) 20 LT 484, DC. 'Use for trade' is different from 'sale': *Evans v Clifton Inns Ltd* (1986) 150 JP 639, DC.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(1) IN GENERAL/67. Regulations relating to weighing or measuring for trade.

67. Regulations relating to weighing or measuring for trade.

The Secretary of State¹ may make regulations² with respect to:

- 223 (1) the materials and principles of construction of weighing or measuring equipment³ for use for trade⁴;
- 224 (2) the inspection, testing, passing as fit for use for trade and stamping⁵ of such equipment, including the prohibition of the stamping of such equipment in such circumstances as may be specified in the regulations, the circumstances in which an inspector⁶ may remove or detain any such equipment for inspection or testing, and the marking of any such equipment found unfit for use for trade⁷;
- 225 (3) the circumstances in which, conditions under which and manner in which stamps may be destroyed, obliterated or defaced⁸;
- 226 (4) where any stamp on weighing or measuring equipment is lawfully destroyed, obliterated or defaced, the circumstances in which, and conditions subject to which, the equipment may be used for trade without contravening the statutory provisions⁹;
- 227 (5) the purposes for which particular types of weighing or measuring equipment may be used for trade¹⁰;
- 228 (6) the manner of erection or use of weighing or measuring equipment used for trade¹¹;
- 229 (7) the abbreviations of or symbols for units of measurement which may be used for trade¹²; and
- 230 (8) the manner in which the tare weight of road vehicles, or of road vehicles of any particular class or description, is to be determined¹³.

If any person contravenes¹⁴ any regulation made by virtue of head (5), (6), (7) or (8) above, he is guilty of an offence and liable to a penalty¹⁵, and any weighing or measuring equipment in respect of which the contravention was committed is liable to be forfeited¹⁶.

Regulations¹⁷ with respect to the testing of equipment may provide:

- 231 (a) that, where a group of items of equipment of the same kind is submitted for testing and prescribed conditions are satisfied with respect to the group, the testing may be confined to a number of items determined by or under the regulations and selected in the prescribed manner¹⁸; and
- 232 (b) that, if items so selected satisfy the test, other items in the group are to be treated as having satisfied it¹⁹.

If any difference arises between an inspector and any other person as to the interpretation of any regulations so made or as to the method of testing any weighing or measuring equipment, that difference may with the consent of that other person, and must at the request of that other person, be referred to the Secretary of State, whose decision is final²⁰.

Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations so made should be complied with, the Secretary of State may, if he thinks fit, dispense with the observance of that requirement subject to compliance with such conditions, if any, as he thinks fit to impose; and if any person knowingly contravenes any condition so imposed with respect to any equipment, he is guilty of an offence and liable to a penalty, and the equipment is liable to be forfeited²¹.

1 As to the Secretary of State see PARA 16 ante.

2 As to the regulations made under the Weights and Measures Act 1985 s 15(1) see the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended) (see PARA 90 post); the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682 (as amended) (see PARA 78 post); the Weights Regulations 1986, SI 1986/1683 (as amended) (see PARA 81 post); the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538 (as amended) (see PARAS 56 ante, 121 et seq post); the Capacity Serving Measures (Intoxicating Liquor) Regulations

1988, SI 1988/120 (as amended) (see PARA 80 post); the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (as amended) (see PARA 9 ante); the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735 (as amended) (see PARA 80 post); the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014 (as amended) (see PARA 93 post); the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000/932 (as amended) (see PARA 95 post); the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARA 96 post); the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended) (see PARA 87 post); and the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761 (see PARA 83 post). By virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures Regulations 1963, SI 1963/1710 (as amended) (see PARA 86 post), the Cubic Measures (Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962 (as amended) (see PARA 79 post), the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390 (as amended) (see PARA 94 post) and the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656 (as amended) (see PARA 92 post) have effect as if so made. As to the making of regulations see PARA 3 ante.

3 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

4 Weights and Measures Act 1985 s 15(1)(a). For the meaning of 'use for trade' see PARA 66 ante.

5 For the meaning of 'stamp' see PARA 34 note 2 ante.

6 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

7 Weights and Measures Act 1985 s 15(1)(b).

8 Ibid s 15(1)(c).

9 Ibid s 15(1)(d). The statutory provisions referred to in the text are those of s 11(2) (as amended): see PARA 69 ante.

10 Ibid s 15(1)(e).

11 Ibid s 15(1)(f).

12 Ibid s 15(1)(g).

13 Ibid s 15(1)(h).

14 As to the meaning of 'contravene' see PARA 46 note 12 ante.

15 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see the Weights and Measures Act 1985 ss 15(3), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

16 Ibid ss 15(3), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante.

17 Ie regulations under ibid s 15(1): see note 2 supra.

18 Ibid s 15(2)(a).

19 Ibid s 15(2)(b).

20 Ibid s 15(4).

21 Ibid ss 15(5), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 15(5), 84(1), (2).

'Knowledge' is an essential ingredient of the offence under s 15(5) and must be proved by the prosecution: see *Gaumont British Distributors Ltd v Henry* [1939] 2 KB 711, [1939] 2 All ER 808. There may be one of three degrees of knowledge (*Taylor's Central Garages (Exeter) Ltd v Roper* [1951] WN 383, DC), ie: (1) actual knowledge in which the state of mind of a person is material and it is relevant to consider whether there was an intent to deceive (*R v Kemp* [1964] 2 QB 341, [1964] 1 All ER 649, CCA); (2) knowledge in the second degree in which a person has shut his eyes to an obvious means of knowledge or refrains from making inquiries the results of which he may not care to have; this amounts to actual knowledge (*Knox v Boyd* 1941 JC 82); (3) constructive knowledge which merely involves neglecting to make inquiries which a reasonable person would

make; this is not actual knowledge (*London Computator Ltd v Seymour* [1944] 2 All ER 11, DC; *Mallon v Allon* [1964] 1 QB 385, [1963] 3 All ER 843). Mere carelessness is not enough: *Bloomfield v Williams* [1970] RTR 184, DC.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

67 Regulations relating to weighing or measuring for trade

NOTE 2--See also Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006, SI 2006/1255; Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006, SI 2006/1256 (amended by SI 2006/2625); Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257 (amended by SI 2006/2625); Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006, SI 2006/1258; Measuring Instruments (Beltweighers) Regulations 2006, SI 2006/1259; Measuring Instruments (Capacity Serving Measures) Regulations 2006, SI 2006/1264; Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006, SI 2006/1266; Measuring Instruments (Material Measures of Length) Regulations 2006, SI 2006/1267; Measuring Instruments (Cold-water Meters) Regulations 2006, SI 2006/1268 (amended by SI 2006/2625); and Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006, SI 2006/1269.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(2) APPROVAL AND STAMPING OF EQUIPMENT/68. In general.

(2) APPROVAL AND STAMPING OF EQUIPMENT

68. In general.

There are provisions in the Weights and Measures Act 1985¹ and in regulations made under the European Communities Act 1972² relating to pattern (or type) approval and to the verification of equipment³. While these parallel provisions are essentially similar, they are legally distinguishable and therefore there must, where appropriate, be compliance with one or other of the regimes for the approval and stamping of instruments.

1 See the Weights and Measures Act 1985 ss 11-14 (as amended); and PARAS 69-74 post. See also PARA 25 ante.

2 See the European Communities Act 1972 s 2(2).

3 See the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended); the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236; and PARAS 75, 96 post.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(2) APPROVAL AND STAMPING OF EQUIPMENT/69. Passing and stamping of prescribed equipment.

69. Passing and stamping of prescribed equipment.

The provisions described below apply to the use for trade¹ of weighing or measuring equipment² of such classes or descriptions as may be prescribed³.

No person may use any article for trade as such equipment, or have any article in his possession for such use, unless that article, or such equipment in which that article is incorporated or to the operation of which the use of that article is incidental⁴, has been passed by an inspector⁵ or approved verifier⁶ as fit for such use⁷ and, except as otherwise expressly provided by or under the Weights and Measures Act 1985, bears a stamp⁸ indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear⁹. If any person contravenes¹⁰ this provision, he is guilty of an offence and liable to a penalty¹¹, and any article in respect of which the offence was committed is liable to be forfeited¹².

Any person requiring any such equipment to be passed by an inspector as fit for use for trade must submit the equipment, in such manner as the local weights and measures authority¹³ may direct, to the inspector who must¹⁴:

- 233 (1) test the equipment by means of such local¹⁵ or working¹⁶ standards and testing equipment¹⁷ as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose¹⁸;
- 234 (2) if the equipment submitted falls within the prescribed limits of error and is not required¹⁹ to be stamped as mentioned in head (3) below, give to the person submitting it a statement in writing to the effect that it is passed as fit for use for trade²⁰; and
- 235 (3) except as otherwise expressly provided by or under the Weights and Measures Act 1985, cause it to be stamped with the prescribed stamp²¹.

There must be charged in respect of any test so carried out such reasonable fees as the local weights and measures authority may determine²². An inspector must keep a record of every test so carried out by him²³.

An approved verifier may²⁴:

- 236 (a) test any equipment to which these provisions²⁵ apply by means of other equipment which has already been tested and which the verifier considers suitable for the purpose²⁶;
- 237 (b) if the equipment being tested falls within the prescribed limits of error and is not required²⁷ to be stamped as mentioned in head (c) below, make a statement in writing to the effect that it is passed for use for trade²⁸; and
- 238 (c) except as otherwise expressly provided for by or under the Weights and Measures Act 1985, stamp it with the prescribed stamp²⁹.

Except as otherwise expressly provided by or under the Weights and Measures Act 1985, no weight or measure may be stamped as mentioned in head (3) or head (c) above unless it has been marked in the prescribed manner with its purported value³⁰.

Where any equipment so submitted to an inspector³¹ is of a pattern in respect of which a certificate of approval³² is for the time being in force, the inspector must not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade³³.

If the inspector is of opinion that the equipment is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Secretary of State, whose decision is final³⁴.

Where a person so submits equipment to an inspector, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and is not obliged to proceed with the test until the person provides it; but a failure to provide the assistance does not constitute an offence³⁵ of failure to provide assistance³⁶.

If an inspector refuses to pass as fit for use for trade any equipment submitted to him and is requested by the person by whom the equipment was submitted to give reasons for the refusal, the inspector must give to that person a statement of those reasons in writing³⁷.

If, in the case of any equipment which is required by regulations³⁸ to be passed and stamped³⁹ only after it has been installed at the place where it is to be used for trade, the equipment (after it has been so passed and stamped) is dismantled and reinstalled, whether in the same or some other place, it must not be used for trade after being so reinstalled until it has again been duly passed⁴⁰. If any person:

- 239 (i) knowingly uses any equipment in contravention of these provisions⁴¹; or
- 240 (ii) knowingly causes or permits any other person so to use it⁴²; or
- 241 (iii) knowing that the equipment is required⁴³ to be again passed, disposes of it to some other person without informing him of that requirement⁴⁴,

he is guilty of an offence and liable to a penalty, and the equipment is liable to be forfeited⁴⁵.

A stamp applied to any equipment under these provisions has the like validity throughout Great Britain as it has in the place in which it was originally applied, and accordingly that equipment is not required to be re-stamped because it is used in any other place⁴⁶.

1 For the meaning of 'use for trade' see PARA 66 ante.

2 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

3 Weights and Measures Act 1985 s 11(1). 'Prescribed' means prescribed by the Secretary of State by regulations: s 94(1). In exercise of the power so conferred the Secretary of State has made the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended) (see PARA 90 post); the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682 (as amended) (see PARA 78 post); the Weights Regulations 1986, SI 1986/1683 (as amended) (see PARA 81 post); the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120 (as amended) (see PARA 80 post); the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (as amended) (see PARA 9 ante); the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735 (as amended) (see PARA 80 post); the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014 (as amended) (see PARA 93 post); the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) (see PARA 95 post); and the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended) (see PARA 87 post). By virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures Regulations 1963, SI 1963/1710 (as amended) (see PARA 86 post), the Cubic Measures (Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962 (as amended) (see PARA 79 post), the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390 (as amended) (see PARA 94 post) and the Measuring Equipment (Intoxicating Liquor) Regulations

1983, SI 1983/1656 (as amended) (see PARA 92 post) have effect as if so made. As to the making of regulations generally see PARA 3 ante. As to the Secretary of State see PARA 16 ante.

If at any time the Secretary of State is satisfied that, having regard to the law for the time being in force in Northern Ireland, any of the Channel Islands or the Isle of Man, it is proper so to do, he may by order provide for any equipment to which the Weights and Measures Act 1985 s 11 (as amended) applies, duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with it, to be treated for the purposes of the Weights and Measures Act 1985 as if it had been duly stamped in Great Britain under s 11 (as amended): s 11(16). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Isle of Man) Order 1992, SI 1992/1591 (amended by SI 2000/3236); the Weights and Measures (Jersey) Order 1992, SI 1992/1592 (amended by SI 2000/3236); the Weights and Measures (Northern Ireland) Order 1992, SI 1992/1593 (amended by SI 2000/3236); and the Weights and Measures (Guernsey and Alderney) Order 1995, SI 1995/1011 (amended by SI 2000/3236). As to the making of orders see PARA 3 ante. For the meaning of 'Great Britain' see PARA 16 note 11 ante.

Any local Act passed before 31 July 1963 (ie the date on which the Weights and Measures Act 1963 was passed) is to continue to be construed: (1) as not making unlawful the use for trade, as equipment to which the Weights and Measures Act 1985 s 11 (as amended) applies, of any article of which such use is not unlawful under s 11 (as amended); and (2) as not requiring any such article to be stamped otherwise than as required by s 11 (as amended): s 96(1), Sch 11 para 6. Where an enactment contained in any local Act passed before 31 July 1963 appears to the Secretary of State to have been superseded by, or to be inconsistent with, any of the provisions of the Weights and Measures Act 1963 re-enacted in the Weights and Measures Act 1985, or any instrument made under those provisions, the Secretary of State may by order, a draft of which must be laid before Parliament, specify that enactment for these purposes, and, without prejudice to the operation in the meantime of any rule of law relating to the effect on any such enactment of any such provision, any enactment specified in the order is repealed as from the date of the making of the order: Sch 11 para 7.

Any equipment to which s 11 (as amended) applies, which immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985) was treated as having been duly stamped under the Weights and Measures Act 1963 s 11 (repealed) by virtue of s 11(7) (repealed) is to be treated for the purposes of the Weights and Measures Act 1985 as having been duly stamped under s 11 (as amended): Sch 11 para 10.

4 Ibid s 11(2). Weighing equipment (including weights) which weighs wholly or partly in drams may continue to be used for trade if it was first passed as fit for use for trade and stamped in accordance with the Weights and Measures Act 1963 before 27 April 1978: Weights and Measures Act 1985 Sch 11 para 12(1). Nothing in Sch 11 para 12(1) is to be taken as authorising the continued use for trade of the dram except in so far as the weight of the goods in drams or partly in drams is treated as having been made known to a prospective buyer by virtue of s 45(1)(a) (see PARA 115 head (1) post) and s 46 (see PARA 116 post): Sch 11 para 12(2). Products and equipment necessary to complete or replace components or parts of equipment the continued use of which is authorised by Sch 11 para 12(1) may be manufactured, placed on the market and used on and after 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985), but this provision does not permit the replacement of weights, whether or not the weights form part of other weighing equipment: Sch 11 para 12(3). Without prejudice to Sch 11 para 12(1), (2), every pattern of weighing equipment: (1) the certificate of approval in respect of which was, or is deemed to have been, granted under the Weights and Measures Act 1963 s 12 (repealed) and was in force immediately before 27 April 1978; and (2) which provides for weighing to be made wholly or partly in drams (including a pattern modified in accordance with an authorisation for the time being in force under s 12 (repealed)) continues to be deemed modified to the extent necessary to require equipment of that pattern to weigh in fractions of an ounce in substitution for drams and fractions of a dram: Weights and Measures Act 1985 Sch 11 para 12(4). These provisions appear to be in direct conflict with the requirements of EC Council Directive 80/181 (OJ L39, 15.2.80, p 40) (as amended) (see PARAS 5, 47 ante), and arguably in direct conflict with the requirements of the Weights and Measures Act 1985 s 8(1) (see PARA 77 post) which has not been made subject to Sch 11 (as amended). See also Sch 11 para 14; and PARA 46 note 2 ante. Schedule 11 para 12(1) has effect notwithstanding the Units of Measurement Regulations 1978, SI 1978/484, reg 3 (revoked) (under which certain units were not authorised for use in certain circumstances on or after 27 April 1978) and the Units of Measurement Regulations 1980, SI 1980/1070 reg 8 (revoked) (under which certain units were not authorised for use in certain circumstances on or after 1 September 1980): Weights and Measures Act 1985 Sch 11 para 15. The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3). The re-enactment in Sch 11 paras 12, 15 of provisions contained in the Units of Measurement Regulations 1978, SI 1978/484 (revoked) and the Units of Measurement Regulations 1980, SI 1980/1070 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(b).

The requirements of s 11(2) (as amended) with respect to stamping and marking do not apply to any weight or measure which is too small to be stamped or marked in accordance therewith: s 11(10) (amended by the Deregulation(Weights and Measures) Order 1999, SI 1999/503, art 2(6)). As to the meaning of 'mark' see PARA

28 note 10 ante. The Weights and Measures Act 1985 s 11(2) (as amended) does not apply to any instrument which bears either:

- 1 (a) the sign of EEC pattern approval and exemption from EEC initial verification; or
- 2 (b) the mark of EEC initial verification,

but this provision does not apply to an instrument of a category to which EC Council Directive 73/360 (OJ L335, 5.12.73, p 1) on non-automatic weighing machines (as amended) (see PARA 5 ante) applies of a class of ordinary accuracy bearing the prescribed identifying symbol for the purpose of weighing any material other than ballast: Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 6(2). An instrument (including any weight) which bears the sign or mark mentioned in reg 6(2) must not be found false or unjust for the purposes of the Weights and Measures Act 1985 s 17(1) (see PARA 99 post) by reason solely of any inaccuracy in the functioning of the instrument, if the error in question is not such as to permit the obliteration of the sign or mark under the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 21(1)(a): reg 6(3). Regulation 6 applies only if the sign or mark remains undefaced otherwise than by reason of fair wear and tear: reg 6(5). As to EEC pattern approval see further PARA 75 post.

5 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

6 For the meaning of 'approved verifier' see PARA 25 ante. As to pre-test stamping of equipment by approved verifiers see PARA 71 post.

7 Weights and Measures Act 1985 s 11(2)(a) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(1)). See note 4 supra.

8 For the meaning of 'stamp' see PARA 34 note 2 ante. The stamp prescribed for use by any person authorised by or under the Weights and Measures Act 1985 s 11 (as amended) for the stamping of weighing and measuring equipment which has been passed as fit for use for trade is: (1) in the case of a stamp for the stamping of a measure made of glass, earthenware, enamelled metal or plastic, either a stamp in the form described in the Weights and Measures (Prescribed Stamp) Regulations 1968, SI 1968/1615, reg 1, Sch 1 (as amended) or a stamp in the form described in reg 1, Sch 2 (as amended); and (2) in the case of a stamp for the stamping of any other weighing or measuring equipment, a stamp in the form described in Sch 2 (as amended): reg 1 (amended by SI 1999/504). As to EEC signs of approval and marks of verification see PARA 75 post.

9 Weights and Measures Act 1985 s 11(2)(b). See note 4 supra.

10 As to the meaning of 'contravene' see PARA 46 note 12 ante.

11 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see the Weights and Measures Act 1985 ss 11(3), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

12 Ibid ss 11(3), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante.

13 For the meaning of 'local weights and measures authority' see PARA 20 ante.

14 Weights and Measures Act 1985 s 11(4) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(2)). This obligation is subject to the provisions of the Weights and Measures Act 1985 and to any regulations under s 15 (see PARA 67 post).

15 For the meaning of 'local standards' see PARA 62 ante.

16 For the meaning of 'working standards' see PARA 64 ante.

17 For the meaning of 'testing equipment' see PARA 64 note 4 ante.

18 Weights and Measures Act 1985 s 11(4)(a).

19 Ie by virtue of ibid s 11(10) (as amended): see note 21 infra.

20 Ibid s 11(4)(b).

21 Ibid s 11(4)(c). The requirements of s 11(4) (as amended) with respect to stamping and marking do not apply to any weight or measure which is too small to be stamped or marked in accordance therewith: s 11(10) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(6)).

22 Weights and Measures Act 1985 s 11(5).

23 Ibid s 11(6).

24 Ie subject to the provisions of the Weights and Measures Act 1985, to any regulations under s 15 (see PARA 67 post) and to any conditions included in his approval.

25 Ie ibid s 11 (as amended).

26 Ibid s 11(4A)(a) (s 11(4A) added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(3)).

27 Ie by virtue of the Weights and Measures Act 1985 s 11(10) (as amended): see note 29 infra.

28 Ibid s 11(4A)(b) (as added: see note 26 supra).

29 Ibid s 11(4A)(c) (as added: see note 26 supra). The requirements of s 11(4A) (as added) with respect to stamping and marking do not apply to any weight or measure which is too small to be stamped or marked in accordance therewith: s 11(10) (amended by the Deregulation(Weights and Measures) Order 1999, SI 1999/503, art 2(6)).

30 Weights and Measures Act 1985 s 11(7) (amended by the Deregulation (Weights and Measures Act 1985) Order 1999, SI 1999/503, art 2(5)). The requirements of the Weights and Measures Act 1985 s 11(7) (as amended) with respect to stamping and marking do not apply to any weight or measure which is too small to be stamped or marked in accordance therewith: s 11(10) (amended by the Deregulation(Weights and Measures) Order 1999, SI 1999/503, art 2(6)).

31 Ie under the Weights and Measures Act 1985 s 11(4) (as amended): see the text and notes 13-21 supra.

32 Ie a certificate granted under ibid s 12: see PARA 73 post.

33 Ibid s 11(8).

34 Ibid s 11(9).

35 Ie an offence under ibid s 81: see PARA 35 post.

36 Ibid s 11(11).

37 Ibid s 11(12).

38 Ie by regulations under ibid s 15: see PARA 67 post.

39 Ie under ibid s 11 (as amended).

40 See ibid s 11(13). Items of equipment which are generally required to be passed and stamped in situ are liquid fuel measuring instruments, weighing machines such as weighbridges, certain platform weighing machines and automatic weighing machines which are 'dormant' ie installed in a hole in the ground or built into other equipment and cannot be readily moved. In the case of such equipment the in situ test is necessary because the proper installation of bearings and levers etc is critical to accuracy. In the case of many electronic weighing machines the requirement for in situ testing is, however, often waived in the notice of approval issued under s 12: see PARA 73 post.

41 Ibid s 11(14)(a). 'Knowledge' is an essential ingredient of offences under s 11(14) and must be proved by the prosecution: see *Gaumont British Distributors Ltd v Henry* [1939] 2 KB 711, [1939] 2 All ER 808. There may be one of three degrees of knowledge (*Taylor's Central Garages (Exeter) Ltd v Roper* [1951] WN 383, DC), ie: (1) actual knowledge in which the state of mind of a person is material and it is relevant to consider whether there was an intent to deceive (*R v Kemp* [1964] 2 QB 341, [1964] 1 All ER 649, CCA); (2) knowledge in the second degree in which a person has shut his eyes to an obvious means of knowledge or refrains from making inquiries the results of which he may not care to have; this amounts to actual knowledge (*Knox v Boyd* 1941 JC 82); (3) constructive knowledge which merely involves neglecting to make inquiries which a reasonable person would make; this is not actual knowledge (*London Computator Ltd v Seymour* [1944] 2 All ER 11, DC; *Mallon v Allon* [1964] 1 QB 385, [1963] 3 All ER 843). Mere carelessness is not enough: *Bloomfield v Williams* [1970] RTR 184, DC.

42 Weights and Measures Act 1985 s 11(14)(b). See note 41 *supra*.

43 *Ie* by virtue of *ibid* s 11(13): see the text to note 40 *supra*.

44 *Ibid* s 11(14)(c). See note 41 *supra*.

45 *Ibid* ss 11(14), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 11(14), 84(1), (2). A licensee may be found to have caused the sale of short measure by an employee even though unaware of it and absent from the premises: *Sopp v Long* [1970] 1 QB 518, [1969] 1 All ER 855, DC.

46 Weights and Measures Act 1985 s 11(15).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(2) APPROVAL AND STAMPING OF EQUIPMENT/70. EEA testers.

70. EEA testers.

Where: (1) any equipment which has been tested by an official EEA tester¹ is at any time submitted to an inspector²; (2) the test report of the official EEA tester is submitted to the inspector at that time³; and (3) that report states which tests have been applied to the equipment and sets out the results of those tests⁴, the provisions for testing of equipment⁵ have effect with modifications requiring the inspector not to repeat those tests but to rely on the results of the tests carried out by the EEA tester⁶.

1 'Official EEA tester' means, in relation to the testing of equipment of any description, a person who, at the time when the tests were applied, had responsibility for the metrological control of equipment of that description, or was accredited in an EEA state as a person operating a laboratory in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description: Weights and Measures Act 1985 s 11B(3) (s 11B added by Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 3). For these purposes, 'EEA state' means a contracting party to the Agreement on the European Economic Area (Oporto, 2 May 1992; Cm 2073 (OJ L1, 3.1.94, p 3)), as adjusted by the Protocol (Brussels, 17 March 1993; Cm 2183 (OJ L1, 3.1.94, p 572)): Weights and Measures Act 1985 s 11B(4) (as so added). As to the applicable European standard see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 6A (added by SI 2003/2110). See also PARA 93 *post*.

2 Weights and Measures Act 1985 s 11B(1)(a) (as added: see note 1 *supra*). The reference in the text to an inspector is a reference to an inspector under s 11(4) (as amended): see PARA 69 *ante*.

3 *Ibid* s 11B(1)(b) (as added: see note 1 *supra*).

4 *Ibid* s 11B(1)(c) (as added: see note 1 *supra*).

5 *Ie* *ibid* s 11 (as amended): see PARA 69 *ante*.

6 *Ibid* s 11B(1), (2) (as added: see note 1 *supra*). Thus s 11 (as amended) has effect as if: (1) s 11(4)(a) (see PARA 69 head (1) *ante*) required the inspector not to test the equipment in the manner mentioned; (2) s 11(4) (b), (c) (see PARA 69 heads (2), (3) *ante*) required him to rely, for those purposes, on the test report of the

official EEA tester; and (3) the reference in s 11(5) (see PARA 69 text to note 22 ante) to any test carried out under s 11(4) (as amended) were a reference to anything done under s 11(4) (as amended): see s 11B(2) (as so added).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

70 EEA testers

NOTE 1--SI 1995/1014 reg 6A substituted: SI 2006/2234.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(2) APPROVAL AND STAMPING OF EQUIPMENT/71. Pre-test stamping by approved verifiers.

71. Pre-test stamping by approved verifiers.

An approved verifier¹ who is the manufacturer of certain equipment² may apply the prescribed³ stamp to the equipment, notwithstanding that it has not been passed as fit for use for trade, if he is satisfied on reasonable grounds that it will not be used, whether for trade or otherwise, unless either: (1) it has been passed as fit for use for trade⁴; or (2) the stamp has been destroyed, obliterated or defaced⁵. Such a stamp may not be applied unless it includes the approved verifier's number⁶. A prescribed stamp applied under this provision has effect: (a) at any time before the equipment is passed as fit for use for trade, as an indication that, when the stamp was applied, the approved verifier was satisfied as mentioned in heads (1) and (2) above⁷; or (b) at any time after the equipment is so passed, as evidence of the passing of the equipment as fit for such use⁸. Where the approved verifier fails to pass as fit for use for trade equipment to which a prescribed stamp has been applied, he may destroy, obliterate or deface the stamp either in the prescribed manner (if there is one)⁹, or in such reasonable manner as will leave no doubt that the stamp has been intentionally destroyed, obliterated or defaced¹⁰.

1 For the meaning of 'approved verifier' see PARA 25 ante.

2 The equipment to which the Weights and Measures Act 1985 s 11 (as amended) applies: see PARA 69 ante.

3 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante. As to the Secretary of State see PARA 16 ante.

4 Ibid s 15A(1)(a) (s 15A added by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 4(1)).

5 Weights and Measures Act 1985 s 15A(1)(b) (as added: see note 4 supra).

6 Ibid s 15A(2) (as added: see note 4 supra). Any person contravening this provision is guilty of an offence, and any equipment in respect of which the offence was committed is liable to forfeiture: s 15A(3) (as so added). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale: s 84(1), (2) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 4(2)). As to the meaning of 'contravene' see PARA 46 note 12 ante. As to the standard scale see PARA 229 note 1 post.

7 Weights and Measures Act 1985 s 15A(4)(a) (as added: see note 4 supra). Where equipment to which a stamp has been so applied is passed as fit for use for trade, nothing in s 11(4)(c) or 11(4A)(c) (as added) requires the application of another stamp: s 15A(5) (as so added). References in s 15A(4)-(6) (as added) to prescribed stamps which have been applied do not include references to such stamps which have subsequently been destroyed, obliterated or defaced: s 15A(7) (as so added).

8 Ibid s 15A(4)(b) (as added: see note 4 supra). See note 7 supra.

9 Ibid s 15A(6)(a) (as added: see note 4 supra). See note 7 supra.

10 Ibid s 15A(6)(b) (as added: see note 4 supra). See note 7 supra.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(2) APPROVAL AND STAMPING OF EQUIPMENT/72. Offences in connection with stamping of equipment.

72. Offences in connection with stamping of equipment.

Any person who, in the case of any weighing or measuring equipment¹ used or intended to be used for trade²:

- 242 (1) not being an inspector³ or approved verifier⁴ or a person acting under the instructions of an inspector or approved verifier, marks in any manner any plug or seal used or designed for use for the reception of a stamp⁵;
- 243 (2) forges, counterfeits or, except as permitted by or under the Weights and Measures Act 1985, in any way alters or defaces any stamp⁶;
- 244 (3) removes any stamp and inserts it into any other such equipment⁷;
- 245 (4) makes any alteration in the equipment after it has been stamped such as to make it false or unjust⁸; or
- 246 (5) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment⁹,

is guilty of an offence and liable to a penalty¹⁰.

Heads (1) and (2) above do not apply to the destruction or obliteration of any stamp, plug or seal; and head (5) above does not apply to anything done, in the course of the adjustment or repair of weighing or measuring equipment by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, such equipment¹¹.

Any person who uses for trade, sells, or exposes or offers for sale any weighing or measuring equipment which to his knowledge:

- 247 (a) bears a stamp which is a forgery or counterfeit, or which has been transferred from other equipment, or which has been altered or defaced otherwise than as permitted by or under the Weights and Measures Act 1985¹²; or

248 (b) is false or unjust as the result of an alteration made in the equipment after it has been stamped¹³,

is guilty of an offence and liable to a penalty¹⁴.

Any weighing or measuring equipment in respect of which an offence is committed under these provisions, and any stamp or stamping implement used in the commission of the offence, is liable to be forfeited¹⁵.

1 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

2 For the meaning of 'use for trade' see PARA 66 ante.

3 For the meaning of 'inspector' see PARA 22 note 5 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

4 For the meaning of 'approved verifier' see PARA 25 ante.

5 Weights and Measures Act 1985 s 16(1)(a) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(9)). For the meaning of 'stamp' see PARA 34 note 2 ante.

6 Weights and Measures Act 1985 s 16(1)(b).

7 Ibid s 16(1)(c).

8 Ibid s 16(1)(d). For the meaning of 'false or unjust' see PARA 99 note 4 post.

9 Ibid s 16(1)(e).

10 Ibid ss 16(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 16(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; as to the prosecution of offences see PARA 226 post; and as to determination of questions of accuracy see PARA 228 post. An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante.

11 Ibid s 16(2).

12 Ibid s 16(3)(a). For an example of such permission see regulations made under s 15(1)(c): see PARA 67 head (3) post.

13 Ibid s 16(3)(b).

14 Ibid ss 16(3), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 16(3), 84(6).

15 Ibid s 16(4).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (3) PATTERN APPROVAL/73. Approved patterns of equipment.

(3) PATTERN APPROVAL

73. Approved patterns of equipment.

Where any pattern of weighing or measuring equipment¹ is submitted by any person to the Secretary of State² for the purpose in such manner as may be prescribed, the Secretary of State must examine in such manner as he thinks fit the suitability for use for trade³ of equipment of that pattern, having regard in particular to the principle, materials and methods used or proposed to be used in construction; and he may:

- 249 (1) require the person to provide such assistance as the Secretary of State thinks fit in connection with the examination (and is not obliged to proceed with the examination until the person provides it)⁴; and
- 250 (2) require the person to pay in respect of the examination a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury⁵.

These provisions apply to a pattern consisting of an approved pattern⁶ with modifications as it applies to other patterns⁷.

If the Secretary of State is satisfied that any equipment in respect of which a pattern is so submitted to him is suitable for use for trade, he must⁸ issue a certificate of approval of that pattern ('a certificate of approval') and must cause particulars of the pattern to be published⁹. Where the Secretary of State is so satisfied, he may require the person submitting the pattern of equipment to deposit with the Secretary of State parts of equipment of that pattern or a model or drawings of such equipment or parts of it and may withhold a certificate of approval of that pattern or, as the case may be, a declaration¹⁰ in respect of the pattern, until the person complies with the requirement¹¹. A certificate of approval may be granted subject to such conditions as the Secretary of State thinks fit¹². A certificate of approval may be granted¹³ subject to a condition under which it ceases to be in force at the end of a specified period of less than ten years¹⁴. Subject to any condition so imposed, a certificate of approval, unless previously revoked, ceases to be in force at the end of the period of ten years beginning with the date when it was granted¹⁵.

A certificate of approval may be renewed by the Secretary of State on an application made in such manner and during such period as may be prescribed and on payment, except in such cases as the Secretary of State may determine, of a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury¹⁶. Where application has been so made to the Secretary of State for the renewal of a certificate of approval, the certificate remains in force until the Secretary of State gives to the applicant, in such manner as may be prescribed, notice of the Secretary of State's decision with respect to the application¹⁷.

The Secretary of State, after consultation with such persons appearing to him to be interested as he thinks fit, may at any time revoke any certificate of approval¹⁸ and must cause notice of any such revocation to be published¹⁹.

Where a certificate of approval expires²⁰ or is revoked²¹, the certificate remains in force in relation to any equipment of the pattern in question which was used for trade at a time when the certificate was in force otherwise than by virtue of this provision²².

Any equipment of a pattern in respect of which a certificate of approval has been granted may, and in such cases as may be prescribed²³ must, be marked in the prescribed manner so as to identify it with the pattern in question²⁴.

1 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

2 As to the Secretary of State see PARA 16 ante.

3 For the meaning of 'use for trade' see PARA 66 ante.

4 Weights and Measures Act 1985 s 12(1)(a). As to offences in connection with approved patterns of equipment see PARA 74 post; and as to EEC pattern approval see PARA 75 post.

5 Ibid s 12(1)(b). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

6 For these purposes, 'approved pattern' means a pattern in respect of which a certificate of approval is in force: *ibid* s 12(2).

7 Ibid s 12(2).

8 *Ie* subject to *ibid* s 12(4) (see the text to note 11 *infra*) and s 14(2) (see PARA 76 post).

9 Ibid s 12(3). Publication is by the National Weights and Measures Laboratory Publications Unit. As to the National Weights and Measures Laboratory see PARA 17 ante.

As to savings for certain instruments under the Weights and Measures Act 1963 s 12 (repealed) (the former provisions on approved patterns of equipment) see the Weights and Measures Act 1985 s 96(1), Sch 11 para 11(1). The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 *et seq*): Weights and Measures Act 1985 s 96(3).

10 *Ie* in pursuance of *ibid* s 14(2): see PARA 76 post.

11 Ibid s 12(4).

12 Ibid s 12(5).

13 *Ie* without prejudice to the generality of *ibid* s 12(5): see the text to note 12 *supra*.

14 Ibid s 12(6).

15 Ibid s 12(7).

16 Ibid s 12(8). Section 12(5)-(7) (see the text to notes 12-15 *supra*) applies in relation to the renewal of a certificate of approval as it applies in relation to the grant of such a certificate: s 12(8).

17 Ibid s 12(9).

18 *Ie* including a certificate remaining in force by virtue of *ibid* s 12(9): see the text to note 17 *supra*.

19 Ibid s 12(10). The power conferred by s 12(10) to revoke a certificate of approval of a pattern includes, in the case of a certificate in respect of which an authorisation of modifications has effect by virtue of Sch 11 para 11(1) (see note 9 *supra*) as if it were a further certificate of approval, power to revoke the original certificate as it has effect apart from the modifications without revoking it as it has effect with the modifications: Sch 11 para 11(2).

20 *Ie* whether at the end of a period or by virtue of a notice under *ibid* s 12(9) (see the text to note 17 *supra*): see s 12(11)(a).

21 *Ie* in a case where the notice of revocation published under *ibid* s 12(10) (see the text to notes 18-19 *supra*) states that s 12(11) and s 13(2) (see PARA 74 post) are to apply with respect to the revocation: see s 12(11)(b).

22 Ibid s 12(11). The power of revocation under s 12(10) includes power to revoke a certificate remaining in force by virtue of s 12(11): see s 12(11).

23 'Prescribed' means prescribed by the Secretary of State by regulations: *ibid* s 94(1). As to the making of regulations generally see *PARA 3 ante*.

24 *Ibid* s 12(12). In exercise of the power so conferred the Secretary of State has made the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (amended by SI 1994/1851; SI 1996/797; SI 2000/387; SI 2003/214) (see *PARA 90 post*); the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (amended by SI 2001/1229; SI 2003/214) (see *PARA 9 ante*); the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014 (amended by SI 1998/2218; SI 2001/85; SI 2003/214; SI 2003/2110) (see *PARA 93 post*); the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000/932 (amended by SI 2000/3236; SI 2001/85; SI 2001/214; SI 2003/2761) (see *PARA 95 post*); and the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (amended by SI 2003/214) (see *PARA 87 post*). By virtue of the Interpretation Act 1978 s 17(2)(b), the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390 (amended by SI 1986/1210; SI 1994/1851; SI 1995/3117; SI 2001/85; SI 2001/214) (see *PARA 94 post*) have effect as if so made.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see *LOCAL GOVERNMENT* vol 69 (2009) *PARA 733*.

73 Approved patterns of equipment

NOTE 24--SI 2000/932 further amended: SI 2006/659. SI 1995/1014 further amended: SI 2006/2234. SI 1983/1390 further amended: SI 2009/3045.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (3) PATTERN APPROVAL/74. Offences in connection with approved patterns of equipment.

74. Offences in connection with approved patterns of equipment.

Where one or more conditions are imposed by the Secretary of State¹ on the grant or renewal of a certificate of approval², then, if any person:

- 251 (1) knowing³ that a condition⁴ has been imposed with respect to any equipment, uses, or causes or permits any other person to use, that equipment in contravention⁵ of that condition⁶; or
- 252 (2) knowing that any condition has been imposed with respect to any equipment, disposes of that equipment to any other person in a state in which it could be used for trade⁷ without informing that other person of that condition⁸,

he is guilty of an offence and liable to a penalty⁹, and the equipment is liable to be forfeited¹⁰.

Where a certificate of approval in respect of any pattern of equipment expires¹¹ or is revoked¹², then, if any person, knowing that the certificate has expired or has been so revoked, supplies to another person any equipment of the pattern in question which is marked with a stamp¹³ and which was not used for trade at a time when the certificate was in force¹⁴, he is guilty of an offence and liable to a penalty, and the equipment supplied is liable to be forfeited¹⁵.

Where a certificate of approval in respect of any pattern of equipment is revoked¹⁶, then, if any person, knowing that the certificate has been so revoked (and except as may be permitted by any fresh certificate granted in respect of that pattern):

- 253 (a) uses for trade, or has in his possession for such use, any equipment of that pattern¹⁷;
- 254 (b) causes or permits any other person to use any such equipment for trade¹⁸; or
- 255 (c) disposes of any such equipment to any such person in a state in which it could be used for trade without informing that other person of the revocation¹⁹,

he is guilty of an offence and liable to a penalty, and the equipment is liable to be forfeited²⁰.

1 As to the Secretary of State see PARA 16 ante.

2 For these purposes, 'certificate of approval' means a certificate of approval of a pattern of weighing or measuring equipment granted under the Weights and Measures Act 1985 s 12 (see PARA 73 ante); and the provisions of s 13(1), (3) have effect in relation to a certificate of approval remaining in force by virtue of s 12(9) or (11) as they have effect in relation to other certificates of approval: s 13(4).

3 'Knowledge' is an essential ingredient of offences under *ibid* s 13 and must be proved by the prosecution: see *Gaumont British Distributors Ltd v Henry* [1939] 2 KB 711, [1939] 2 All ER 808. There may be one of three degrees of knowledge (*Taylor's Central Garages (Exeter) Ltd v Roper* [1951] WN 383, DC), ie: (1) actual knowledge in which the state of mind of a person is material and it is relevant to consider whether there was an intent to deceive (*R v Kemp* [1964] 2 QB 341, [1964] 1 All ER 649, CCA); (2) knowledge in the second degree in which a person has shut his eyes to an obvious means of knowledge or refrains from making inquiries the results of which he may not care to have; this amounts to actual knowledge (*Knox v Boyd* 1941 JC 82); (3) constructive knowledge which merely involves neglecting to make inquiries which a reasonable person would make; this is not actual knowledge (*London Computator Ltd v Seymour* [1944] 2 All ER 11, DC; *Mallon v Allon* [1964] 1 QB 385, [1963] 3 All ER 843). Mere carelessness is not enough: *Bloomfield v Williams* [1970] RTR 184, DC.

4 Ie other than such a condition as is mentioned in the Weights and Measures Act 1985 s 12(6): see PARA 73 ante.

5 As to the meaning of 'contravention' see PARA 46 note 12 ante.

6 Weights and Measures Act 1985 s 13(1)(a).

7 For the meaning of 'use for trade' see PARA 66 ante.

8 Weights and Measures Act 1985 s 13(1)(b). See note 3 supra.

9 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see *ibid* ss 13(1), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

10 *Ibid* ss 13(1), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante. See note 3 supra.

11 Ie whether at the end of a period or by virtue of a notice under *ibid* s 12(9) (see PARA 73 ante): see s 13(2) (a).

12 Ie in a case falling within *ibid* s 12(11)(b) (see s 13(2)(b)), namely where the notice of revocation published under s 12(10) states that s 12(11) and s 13(2) are to apply with respect to the revocation: see PARA 73 ante.

13 For the meaning of 'stamp' see PARA 34 note 2 ante. As to EEC signs of approval and marks of verification see PARA 75 post.

14 Ie otherwise than by virtue of the Weights and Measures Act 1985 s 12(11): see PARA 73 ante.

15 *Ibid* ss 13(2), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 13(2), 84(1), (2).

16 le in a case not falling within *ibid* s 12(11)(b) (see note 12 *supra*).

17 *Ibid* s 13(3)(a).

18 *Ibid* s 13(3)(b).

19 *Ibid* s 13(3)(c).

20 *Ibid* ss 13(3), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 13(3), 84(1), (2).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (3) PATTERN APPROVAL/75. EEC pattern approval.

75. EEC pattern approval.

The Measuring Instruments (EEC Requirements) Regulations 1988¹ apply to instruments or systems of the following categories only:

- 256 (1) instruments of a category to which the EC Council Directive on medium accuracy bar weights and cylindrical weights² applies³;
- 257 (2) instruments of a category to which the EC Council Directive on meters for liquids other than water⁴ applies⁵;
- 258 (3) instruments of a category to which the EC Council Directive on the measuring of the standard mass per storage volume of grain⁶ applies⁷;
- 259 (4) instruments of a category to which the EC Directive on ancillary equipment for meters for liquids other than water⁸ applies⁹;
- 260 (5) instruments of a category to which the EC Council Directive on non-automatic weighing machines¹⁰ applies¹¹;
- 261 (6) instruments of a category to which the EC Council Directive on material measures of length¹² applies¹³;
- 262 (7) instruments of a category to which the EC Council Directive on above-medium accuracy weights¹⁴ applies¹⁵;
- 263 (8) instruments of a category to which the EC Council Directive on cold-water meters¹⁶ applies¹⁷;
- 264 (9) instruments of a category to which the EC Council Directive on continuous totalising weighing machines¹⁸ applies¹⁹;
- 265 (10) systems, and components of such systems, of a category to which the EC Council Directive on measuring systems for liquids other than water²⁰ applies²¹;
- 266 (11) instruments of a category to which the EC Council Directive on automatic check-weighing and weight grading machines²² applies²³;
- 267 (12) instruments of a category to which the EC Council Directive on hot-water meters²⁴ applies²⁵; and
- 268 (13) instruments to which the EC Council Directive on tyre pressure gauges for motor vehicles²⁶ applies²⁷.

The regulations contain provisions relating to:

- 269 (a) the signs and marks relating to EEC pattern approval and EC initial verification²⁸;
- 270 (b) applications to the Secretary of State²⁹ for EEC pattern approval, their extension and the effect of their non-extension³⁰;
- 271 (c) EEC limited pattern approval and the enforcement of applicable conditions³¹;
- 272 (d) revocation of EEC pattern approval and the effect of revocation³²;
- 273 (e) the application in the United Kingdom of the EEC signs relating to pattern approval or exemption from pattern approval³³;
- 274 (f) applications for initial EEC verification of measuring instruments to determine whether they comply with the approved pattern, if there is one, whether granted in the United Kingdom or in another member state³⁴;
- 275 (g) the temporary prohibition of sale or use³⁵;
- 276 (h) retesting after dismantling³⁶;
- 277 (i) the prescribed limits of error and the obliteration of EC signs and marks³⁷;
- 278 (j) the lawful use for trade of meter measuring systems where marks of EC initial verification are destroyed, obliterated or defaced³⁸;
- 279 (k) the unauthorised application of EEC signs and marks³⁹;
- 280 (l) powers of inspection and entry⁴⁰;
- 281 (m) obstruction of inspectors⁴¹; and
- 282 (n) offences⁴².

1 Ie the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended). The Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) are applied, with modifications, to alcoholometers and alcohol hydrometers (see the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753 (as amended); and PARA 82 post), taximeters (see the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379 (as amended); and PARA 98 post), electrical energy meters (see the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995, SI 1995/2607 (as amended); and PARA 9 ante) and gas volume meters (see the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988, SI 1988/296 (as amended); and PARA 9 ante).

2 Ie EC Council Directive 71/317 (OJ L202, 6.9.71, p 14): see PARA 5 ante.

3 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(a).

4 Ie EC Council Directive 71/319 (OJ L202, 6.9.71, p 32): see PARA 5 ante

5 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(b).

6 Ie EC Council Directive 71/347 (OJ L239, 25.10.71, p 1).

7 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(c).

8 Ie EC Council Directive 71/348 (OJ L239, 25.10.71, p 9): see PARA 5 ante.

9 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(d).

10 Ie EC Council Directive 73/360 (OJ L335, 5.12.73, p 1) (as amended): see PARA 5 ante. The Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) were replaced, in so far as they relate to non-automatic weighing machines, by the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995, SI 1995/1907 (amended by SI 1997/3035) after 31 December 2002, but provision was made for the continued use of such instruments in use immediately before that date. However, the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995, SI 1995/1907 (as amended) have been replaced and revoked by the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, for the application of which see in particular reg 3. See further PARA 96 post.

11 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(e).

- 12 le EC Council Directive 73/362 (OJ L335, 5.12.73, p 56) (as amended): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 13 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(f).
- 14 le EC Council Directive 74/148 (OJ L84, 29.3.74, p 3): see PARA 5 ante.
- 15 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(g).
- 16 le EC Council Directive 75/33 (OJ L14, 20.1.75, p 1): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 17 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(h).
- 18 le EC Council Directive 75/410 (OJ L183, 14.7.75, p 25): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 19 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(i).
- 20 le EC Council Directive 77/313 (OJ L105, 28.4.77, p 18) (as amended): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 21 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(j).
- 22 le EC Council Directive 78/1031 (OJ L364, 27.12.78, p 1): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 23 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(k).
- 24 le EC Council Directive 79/830 (OJ L259, 15.10.79, p 1): see PARA 5 ante. See also EC Council Directive 2004/22 (OJ L135, 30.04.2004, p 1) on measuring instruments; and PARA 5 ante.
- 25 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(l).
- 26 le EC Council Directive 86/217 (OJ L152, 6.6.86, p 48): see PARA 5 ante.
- 27 Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 3(m). As to publication of pattern approvals see PARA 73 ante.
- 28 For the prescribed sign of EEC pattern approval see *ibid* reg 4(1), Sch 1 para 1 (amended by SI 1988/1128); for the prescribed sign of EEC limited pattern approval see the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, Sch 1 para 2; for the prescribed sign of exemption from EEC pattern approval see Sch 1 para 3; for the prescribed sign of EC pattern approval and exemption from EEC initial verification see Sch 1 para 4; for the prescribed mark of EEC initial verification see Sch 1 para 5 (amended by SI 1988/1128); and for the prescribed mark of EEC partial verification see the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, Sch 1 para 6.
- 29 As to the Secretary of State see PARA 16 ante.
- 30 See the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, regs 8, 9, 18, Sch 2.
- 31 See *ibid* regs 10, 16.
- 32 See *ibid* regs 11, 17.
- 33 See *ibid* reg 12.
- 34 See *ibid* regs 13, 14, Sch 3. Such applications must be made to a local weights and measures inspector except in the case of certain types of instrument where such applications must be made to the Secretary of State or to an inspector of a nominated local weights and measures authority only: see reg 13.
- 35 See *ibid* reg 19.
- 36 See *ibid* reg 20.
- 37 See *ibid* regs 21, 22, Sch 4.
- 38 See *ibid* regs 23, 24.

- 39 See *ibid* reg 25.
 40 See *ibid* reg 26.
 41 See *ibid* reg 27.
 42 See *ibid* regs 28, 29.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

75 EEC pattern approval

NOTE 28--SI 1988/186 Sch 1 paras 1, 5 further amended: SI 2008/1267.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (4) GENERAL SPECIFICATIONS/76. General specifications of equipment.

(4) GENERAL SPECIFICATIONS

76. General specifications of equipment.

The Secretary of State¹ may by regulations prescribe² general specifications for the construction of weighing or measuring equipment for use for trade³, and, while any such specification is for the time being so prescribed, no equipment which does not conform with the statutory provisions⁴ may be passed or stamped⁵ by an inspector⁶ or approved verifier⁷ unless it is of a pattern in respect of which a certificate of approval⁸ is in force⁹.

If the Secretary of State is satisfied that any pattern submitted to him¹⁰ conforms with any general specification for the time being prescribed under these provisions, he may, instead of issuing a certificate of approval¹¹, cause to be published a declaration to that effect together with particulars of that pattern¹².

Where a specification prescribed by regulations is varied or revoked by further regulations under these provisions, then, if any person:

- 283 (1) uses for trade any equipment which conformed with that specification but which to his knowledge no longer conforms with any specification prescribed by such¹³;
- 284 (2) has any such equipment in his possession for use for trade¹⁴;
- 285 (3) causes or permits any other person to use any such equipment for trade¹⁵; or
- 286 (4) disposes of any such equipment to any other person in a state in which it could be used for trade without informing that other person that it no longer conforms with any specification prescribed by regulations under these provisions¹⁶,

he is guilty of an offence and liable to a penalty¹⁷, and the equipment is liable to be forfeited¹⁸.

Where, in the case of any particular equipment, the Secretary of State is of the opinion that there are special circumstances which make it impracticable or unnecessary for that equipment to comply with any particular requirement of any specification prescribed under these provisions, the Secretary of State may exempt that equipment from that requirement subject to compliance with such conditions, if any, as he thinks fit¹⁹. If any person knowingly contravenes²⁰ any condition so imposed with respect to any equipment, he is guilty of an offence and liable to a penalty, and the equipment is liable to be forfeited²¹.

If any difference arises between an inspector and any other person as to the interpretation of any specification prescribed under these provisions, or as to whether or not any equipment conforms with such a specification, that difference may with the consent of that other person, and must at the request of that other person, be referred to the Secretary of State, whose decision is final²².

1 As to the Secretary of State see PARA 16 ante.

2 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante.

3 The equipment to which *ibid* s 11 (as amended) applies: see PARA 69 ante. For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante; and for the meaning of 'use for trade' see PARA 66 ante.

4 *Ibid* s 11 (as amended): see PARA 69 ante.

5 *Ibid* under *ibid* s 11 (as amended): see PARA 69 ante. For the meaning of 'stamp' see PARA 34 note 2 ante.

6 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

7 For the meaning of 'approved verifier' see PARA 25 ante.

8 *Ibid* under the Weights and Measures Act 1985 s 12(1): see PARA 73 ante.

9 *Ibid* s 14(1) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 2(8)). At the date at which this volume states the law, no such regulations had been made and none have effect as if so made. As to the making of regulations see PARA 3 ante.

10 See note 8 *supra*.

11 *Ibid* under the Weights and Measures Act 1985 s 12: see PARA 73 ante.

12 *Ibid* s 14(2).

13 *Ibid* s 14(3)(a).

14 *Ibid* s 14(3)(b).

15 *Ibid* s 14(3)(c).

16 *Ibid* s 14(3)(d).

17 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see *ibid* ss 14(3), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

18 *Ibid* ss 14(3), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante.

19 *Ibid* s 14(4).

20 As to the meaning of 'contravene' see PARA 46 note 12 ante.

21 Weights and Measures Act 1985 ss 14(5), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 14(5), 84(1), (2).

'Knowledge' is an essential ingredient of the offence under s 14(5) and must be proved by the prosecution: see *Gaumont British Distributors Ltd v Henry* [1939] 2 KB 711, [1939] 2 All ER 808. There may be one of three degrees of knowledge (*Taylor's Central Garages (Exeter) Ltd v Roper* [1951] WN 383, DC), ie: (1) actual knowledge in which the state of mind of a person is material and it is relevant to consider whether there was an intent to deceive (*R v Kemp* [1964] 2 QB 341, [1964] 1 All ER 649, CCA); (2) knowledge in the second degree in which a person has shut his eyes to an obvious means of knowledge or refrains from making inquiries the results of which he may not care to have; this amounts to actual knowledge (*Knox v Boyd* 1941 JC 82); (3) constructive knowledge which merely involves neglecting to make inquiries which a reasonable person would make; this is not actual knowledge (*London Computator Ltd v Seymour* [1944] 2 All ER 11, DC; *Mallon v Allon* [1964] 1 QB 385, [1963] 3 All ER 843). Mere carelessness is not enough: *Bloomfield v Williams* [1970] RTR 184, DC.

22 Weights and Measures Act 1985 s 14(6).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(i) Linear, Square, Cubic and Capacity Measures and Weights/77. Lawful measures and weights.

(5) PARTICULAR TYPES OF EQUIPMENT

(i) Linear, Square, Cubic and Capacity Measures and Weights

77. Lawful measures and weights.

No person may use for trade¹, or have in his possession for use for trade, any linear, square, cubic or capacity measure or any weight which is not a lawful measure or weight² for use for trade³.

The following measures and weights are lawful for use for trade:

287 (1) so far as linear measures are concerned, 50 metres⁴, 30 metres, 20 metres, ten metres, five metres, three metres, two metres, 1.5 metres, one metre, 0.5 metre, one decimetre⁵ and one centimetre⁶;

288 (2) so far as square measures are concerned, measures of, or of any multiple of, one square decimetre⁷;

289 (3) so far as cubic measures are concerned:

5

6. (a) measures of, or of any multiple of, 0.1 cubic metre⁸;

7. (b) measures of any multiple of ten litres⁹, and ten litres, five litres, 2.5 litres, two litres, one litre, 500 millilitres¹⁰, 250 millilitres, 200 millilitres, 100 millilitres, 50 millilitres, 25 millilitres, 20 millilitres, ten millilitres, five millilitres, two millilitres and one millilitre¹¹;

6

290 (4) so far as capacity measures are concerned:

7

8. (a) measures of 16 pints¹², eight pints, four pints, two pints, one pint, one-half of a pint and one-third of a pint, two-fifths of a gill, one-third of a gill, one-fifth of a gill¹³;
9. (b) measures of any multiple of ten litres, and ten litres, five litres, 2.5 litres, two litres, one litre, 500 millilitres, 250 millilitres, 200 millilitres, 175 millilitres, 150 millilitres, 125 millilitres, 100 millilitres, 70 millilitres, 50 millilitres, 35 millilitres, 25 millilitres, 20 millilitres, ten millilitres, five millilitres, two millilitres and one millilitre¹⁴;

8

291 (5) so far as weights are concerned:

9

10. (a) weights of 500 ounces troy¹⁵, 400 ounces troy, 300 ounces troy, 200 ounces troy, 100 ounces troy, 50 ounces troy, 40 ounces troy, 30 ounces troy, 20 ounces troy, ten ounces troy, five ounces troy, four ounces troy, three ounces troy, two ounces troy, one ounce troy, 0.5 ounce troy, 0.4 ounce troy, 0.3 ounce troy, 0.2 ounce troy, 0.1 ounce troy, 0.05 ounce troy, 0.04 ounce troy, 0.03 ounce troy, 0.025 ounce troy, 0.02 ounce troy, 0.01 ounce troy, 0.005 ounce troy, 0.004 ounce troy, 0.003 ounce troy, 0.002 ounce troy and 0.001 ounce troy¹⁶;
11. (b) weights of 25 kilograms¹⁷, 20 kilograms, ten kilograms, five kilograms, two kilograms, one kilogram, 500 grams¹⁸, 200 grams, 100 grams, 50 grams, 20 grams, 15 grams, ten grams, five grams, four grams, three grams, two grams, one gram, 500 milligrams¹⁹, 400 milligrams, 300 milligrams, 200 milligrams, 150 milligrams, 100 milligrams, 50 milligrams, 20 milligrams, ten milligrams, five milligrams, two milligrams and one milligram²⁰;
12. (c) weights of 500 carats (metric)²¹, 200 carats (metric), 100 carats (metric), 50 carats (metric), 20 carats (metric), ten carats (metric), five carats (metric), two carats (metric), one carat (metric), 0.5 carat (metric), 0.25 carat (metric), 0.2 carat (metric), 0.1 carat (metric), 0.05 carat (metric), 0.02 carat (metric) and 0.01 carat (metric)²².

10

A person who contravenes²³ these provisions is guilty of an offence and liable to a penalty²⁴, and any measure or weight used, or in any person's possession for use, in contravention of those provisions is liable to be forfeited²⁵.

1 For the meaning of 'use for trade' see PARA 66 ante.

2 The which is not included in the Weights and Measures Act 1985 s 8(1), Sch 3 (as amended): see heads (1)-(5) in the text. The Secretary of State may by order amend Sch 3 (as amended) by adding to or removing from it any linear, square, cubic or capacity measure, or any weight: s 8(6)(a). An order under s 8(6)(a) may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State expedient: s 8(7). In exercise of the power under s 8(6), the Secretary of State has made the Weights and Measures (Intoxicating Liquor) (Amendment) Order 1994, SI 1994/1883; the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866; and the Weights and Measures (Intoxicating Liquor) (Amendment) Order 2001, SI 2001/1322. As to the making of orders see PARA 3 ante. As to the Secretary of State see PARA 16 ante.

3 Weights and Measures Act 1985 s 8(1)(b). Section 8(1)(b) does not apply to a weight of 50 kilograms which bears the mark of EC initial verification: Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 6(1). Regulation 6 applies only if the sign or mark remains undefaced otherwise than by reason of fair wear and tear: reg 6(5). As to EEC pattern approval see further PARA 75 post. For the meaning of 'kilogram' see PARA 44 ante. See also PARA 46 ante.

4 For the meaning of 'metre' see PARA 40 ante.

5 For the meaning of 'decimetre' see PARA 40 ante.

6 Weights and Measures Act 1985 Sch 3 Pt I (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3). For the meaning of 'centimetre' see PARA 40 ante.

7 Weights and Measures Act 1985 Sch 3 Pt II (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3). For the meaning of 'square decimetre' see PARA 41 ante.

8 Weights and Measures Act 1985 Sch 3 Pt III para 1. For the meaning of 'cubic metre' see PARA 42 ante.

9 For the meaning of 'litre' see PARA 42 ante.

10 For the meaning of 'millilitre' see PARA 42 ante.

11 Weights and Measures Act 1985 Sch 3 Pt III para 2.

12 For the meaning of 'pint' see PARA 43 ante.

13 Weights and Measures Act 1985 Sch 3 Pt IV para 1 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3).

14 Weights and Measures Act 1985 Sch 3 Pt IV para 2 (amended by the Weights and Measures (Intoxicating Liquor) (Amendment) Order 1994, SI 1994/1883, art 2(b); and the Weights and Measures (Intoxicating Liquor) (Amendment) Order 2001, SI 2001/1322, art 2(b)).

15 For the meaning of 'ounce troy' see PARA 44 ante.

16 Weights and Measures Act 1985 Sch 3 Pt V para 2.

17 For the meaning of 'kilogram' see PARA 44 ante.

18 For the meaning of 'gram' see PARA 44 ante.

19 For the meaning of 'milligram' see PARA 44 ante.

20 Weights and Measures Act 1985 Sch 3 Pt V para 3.

21 For the meaning of 'carat (metric)' see PARA 44 ante.

22 Weights and Measures Act 1985 Sch 3 Pt V para 4.

23 As to the meaning of 'contravention' see PARA 46 note 12 ante.

24 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see the Weights and Measures Act 1985 ss 8(4), 84(1), (2). As to the standard scale para 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

25 Ibid ss 8(4), 84(1), (2). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 ante.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(i) Linear, Square, Cubic and Capacity Measures and Weights/78. Measures of length.

78. Measures of length.

The Measuring Equipment (Measures of Length) Regulations 1986¹ apply to certain measuring equipment for use for trade², namely measures of length³, which do not bear the mark of EC initial verification⁴; and the regulations make provision relating to:

- 292 (1) the materials and principles of construction of measures of length and their marking⁵;
- 293 (2) their manner of use for trade⁶;
- 294 (3) their testing⁷;
- 295 (4) the prescribed limits of error⁸;
- 296 (5) their passing as being fit for use for trade⁹; and
- 297 (6) their stamping and the obliteration of such stamps¹⁰.

1 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682 (amended by SI 1986/2109; SI 1994/1851; SI 1996/2636; SI 1996/3020; SI 2001/85; SI 2003/214; SI 2003/551). These regulations implement EC Council Directive 73/362 (OJ L335, 5.12.73, p 56) (as amended) (see PARA 5 ante).

2 For the meaning of 'use for trade' see PARA 66 ante.

3 'Measure of length' means a linear measure set out in the Weights and Measures Act 1985 s 8(1), Sch 3 Pt I (as amended) (see PARA 77 head (1) ante): Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 2 (definition amended by SI 1986/2109). Such measures of length are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 3(1).

4 See *ibid* reg 3(1), (2). For these purposes, 'mark of EEC initial verification' means the mark described in the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 4(1), Sch 1 para 5 (as amended) (see PARA 75 ante): Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 3(3); Interpretation Act 1978 s 17(2)(b).

5 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, Pt II (regs 4-19) (amended by SI 1994/1851; SI 2001/85).

6 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, Pt III (reg 20).

7 See *ibid* Pt IV (regs 21-23B) (amended by SI 1996/2636; SI 2003/214); the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 23A, Sch 2 (added by SI 1996/2636; and amended by SI 1996/3020).

8 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 24 (substituted by SI 1994/1851).

9 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, reg 25 (substituted by SI 1996/2636).

10 See the Measuring Equipment (Measures of Length) Regulations 1986, SI 1986/1682, regs 26-28.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

78 Measures of length

TEXT AND NOTES--See also the Measuring Instruments (Material Measures of Length) Regulations 2006, SI 2006/1267.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(i) Linear, Square, Cubic and Capacity Measures and Weights/79. Cubic measures.

79. Cubic measures.

The Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978¹ make provision relating to the cubic measures to be employed in measuring sand, ballast², inorganic fertilisers and certain other materials used in the building trade or in agriculture³; and the regulations make provision for:

- 298 (1) the construction, form and sizes of brim measures⁴;
- 299 (2) prescribed measures, other than brim measures or measures of an approved pattern⁵;
- 300 (3) the marking of prescribed measures⁶;
- 301 (4) the testing of prescribed measures⁷;
- 302 (5) the passing of prescribed measures as fit for use for trade⁸;
- 303 (6) prescribed limits of error⁹; and
- 304 (7) the stamping of prescribed measures with an approved pattern¹⁰ and the obliteration of such stamps¹¹.

¹ ie the Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962 (amended by SI 1988/765).

² 'Ballast' means any of the materials mentioned in the Weights and Measures Act 1985 s 21, Sch 4 para 1 (see PARA 168 post), ie: (1) sand, gravel, shingle, ashes and clinker of any description; (2) broken slag, slag chippings, granite chippings, limestone chippings, slate chippings and other stone chippings (including such materials which have been coated with tar, bitumen or cement); (3) any other material commonly used in the building and civil engineering industries as a hardcore or an aggregate; and (4) any other material commonly known in those industries as ballast: Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 2(1); Interpretation Act 1978 s 17(2)(b).

³ 'Agricultural materials' means any of the materials mentioned in the Weights and Measures Act 1985 s 21, Sch 6 para 8 (see PARA 190 post), ie: (1) agricultural liming materials, other than calcareous sand; (2) agricultural salt; (3) inorganic fertilisers and mixtures consisting mainly of inorganic fertilisers other than fertilisers of mixtures made up into pellets or other articles for use as individual items; and (4) any mixture of any of the above: Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 2(1); Interpretation Act 1978 s 17(2)(b).

4 See the Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 4 (amended by SI 1988/765). 'Brim measure' means any measure designed to measure only the quantity which it holds when filled to the brim: Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 2(1).

5 As to the application of provisions see *ibid* reg 5; as to the construction, form etc of other measures see reg 6 (amended by SI 1988/765); as to calibration see the Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 7; as to calibration strips see reg 8, Sch 2; and as to marking of calibration strips see reg 9, Sch 2. All measures for measuring ballast and agricultural materials by volume are prescribed pursuant to the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962, reg 3; Interpretation Act 1978 s 17(2)(b).

6 See the Cubic Measures (Sand, Ballast and Agricultural Materials) Regulations 1978/1962, reg 10.

7 See *ibid* reg 11.

8 See *ibid* reg 12. For the meaning of 'use for trade' see PARA 66 ante.

9 See *ibid* reg 13.

10 See *ibid* reg 14.

11 See *ibid* reg 15.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(i) Linear, Square, Cubic and Capacity Measures and Weights/80. Liquid and dry capacity measures.

80. Liquid and dry capacity measures.

The Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995¹ apply to liquid and dry capacity measures for use for trade², other than:

- 305 (1) liquid capacity measures to which the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988³ apply⁴;
- 306 (2) liquid capacity measures specified⁵ for use only for making up or checking packages⁶;
- 307 (3) liquid capacity measures for use for measuring liquid lubricants⁷;
- 308 (4) liquid capacity measures for use for measuring milk⁸;
- 309 (5) dry capacity measures for use for measuring peas and beans⁹;
- 310 (6) capacity measures which exceed 20 litres for metric measures or 16 pints for imperial measures¹⁰;

- 311 (7) capacity measures being containers which: (a) have been supplied by retail containing a cosmetic product¹¹; (b) are provided by an individual to a retailer¹²; and (c) are used by the retailer in the presence of the individual in ascertaining or determining the amount by volume of a cosmetic product which is of the same description as that mentioned in head (a) above and is to be supplied to him in the container¹³.

The regulations make provisions relating to:

- 312 (i) materials, principles of construction and use¹⁴;
 313 (ii) the testing of capacity measures¹⁵;
 314 (iii) the passing of capacity measures as fit for use for trade¹⁶;
 315 (iv) the prescribed limits of error¹⁷;
 316 (v) the marking of scale marks on graduated or subdivided measures¹⁸; and
 317 (vi) the stamping of capacity measures¹⁹ and the obliteration of such stamps²⁰.

The Capacity Serving Measures (Intoxicating Liquor) Regulations 1988 prescribe certain liquid capacity serving measures for use for trade for the purposes of measuring and serving intoxicating liquor for consumption on or off the premises at which it is sold²¹; and they make provisions relating to:

- 318 (A) the materials and principles of construction of serving measures and their marking²²;
 319 (B) their testing²³;
 320 (C) the prescribed limits of error²⁴;
 321 (D) their passing as being fit for trade²⁵; and
 322 (E) their stamping and the obliteration of such stamps²⁶.

1 Ie the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735 (amended by SI 2001/85; SI 2001/599; SI 2003/214).

2 For the meaning of 'use for trade' see PARA 66 ante.

3 Ie the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120 (amended by SI 1993/2060; SI 1994/1851; SI 2001/85; SI 2003/214): see the text and notes 21-26 infra.

4 Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(1) (a). Capacity measures to which the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735 (as amended) apply are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(3).

5 Ie in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, Sch 4 para 4.

6 Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(1) (b). As to the making up and checking of packages see the Weights and Measures Act 1985 s 49(2)(a); and PARA 211 head (i) post. See note 4 supra.

7 Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(1) (c). See note 4 supra.

8 Ibid reg 3(1)(d). See note 4 supra.

9 Ibid reg 3(1)(e). See note 4 supra.

10 Ibid reg 3(1)(f). See note 4 supra.

11 Ibid reg 3(1)(g)(i) (reg 3(g) added by SI 2001/599). 'Cosmetic product' means any substance or preparation intended to be placed in contact with the various external parts of the human body (that is to say,

the epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting bodily odours, protecting them or keeping them in good condition: Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(1)(g) (as so added). See note 4 supra.

12 Ibid reg 3(1)(g)(ii) (as added: see note 11 supra). See note 4 supra.

13 Ibid reg 3(1)(g)(iii) (as added: see note 11 supra).

14 As to categories of capacity measures see ibid reg 4; as to materials and principles of construction of capacity measures see reg 5; as to construction of capacity measures see reg 6; as to the purpose and manner of use of capacity measures see reg 7. Regulations 4, 5, 6(1)(a)-(d), 7, 9, 12 and 16(4), (5)(a) do not apply to dispensing measures for pharmaceutical purposes: reg 3(2) (amended by SI 2001/599).

15 As to the requirement for capacity measures for testing to be clean see the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 8; as to testing of nominal capacity and scale marks of capacity measures see reg 9; as to testing of groups of capacity measures see reg 10; as to capacity measures imported from another member state or EEA state see reg 11 (amended by SI 2001/599); and as to the provision of material for an inspector's use see the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 14. See also note 14 supra.

16 See ibid reg 16(1)-(3).

17 See ibid reg 15, Sch 2 (amended by SI 2001/599).

18 See the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 17.

19 See ibid reg 16(4)-(7) (amended by SI 2001/85). Graduated and subdivided capacity measures referred to in the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 16(5)(c) are prescribed as being lawful for use for trade for the purposes of the Weights and Measures Act 1985 s 10(1)(b) (see PARA 48 ante): Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 3(4) (amended by SI 2001/599).

20 See the Measuring Equipment (Capacity Measures and Testing Equipment) Regulations 1995, SI 1995/735, reg 18.

21 See the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, reg 3(1) (amended by SI 1994/1851). The Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120 (as amended) do not apply to liquid capacity measures specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, Sch 4 para 4 for use only for making up or checking packages in accordance with the Weights and Measures Act 1985 s 49(1) or s 49(2)(a) (see PARA 211 post): Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, reg 3(2). Capacity serving measures to which the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120 (as amended) apply are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, reg 3(3).

22 See ibid Pt II (regs 4-10) (amended by SI 1993/2060; SI 1994/1851; SI 2001/85).

23 See the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, Pt III (regs 11-18) (amended by SI 1993/2060; SI 2003/214).

24 See the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, reg 19.

25 See ibid reg 20 (amended by SI 1993/2060).

26 See the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988, SI 1988/120, regs 21, 22.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

80 Liquid and dry capacity measures

TEXT AND NOTES--See also the Measuring Instruments (Capacity Serving Measures) Regulations 2006, SI 2006/1264.

TEXT AND NOTES 5, 6--Head (2) omitted: SI 1995/735 reg 3(1)(b) revoked by SI 2006/659.

NOTE 21--SI 1988/120 reg 3(2) revoked: SI 2006/659.

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81. Weights.

The Weights Regulations 1986¹ apply to weights² for use for trade³ other than:

- 323 (1) weights for use only for weighing coins or currency notes for the purpose of determining their number⁴;
- 324 (2) proportional weights or proportional counterpoises used through a system of levers on graduated non-self-indicating weighing machines⁵; and
- 325 (3) externally-controlled weights used through a system of levers and incorporated in two-or-three-knife edge balances⁶.

They make provision relating to:

- 326 (a) the material and principles of construction and marking of weights⁷;
- 327 (b) the testing of weights⁸;
- 328 (c) the prescribed limits of error⁹;
- 329 (d) the passing of weights as fit for use for trade¹⁰; and
- 330 (e) the stamping of weights and the obliteration of such stamps¹¹.

1 See the Weights Regulations 1986, SI 1986/1683 (amended by SI 1994/1851; SI 2000/932). These regulations implement EC Council Directive 74/148 (OJ L84, 29.3.74, p 3) and EC Council Directive 71/317 (OJ L202, 6.9.71, p 14) (see PARA 5 ante).

2 Such weights are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weights Regulations 1986, SI 1986/1683, reg 3(1).

3 Ibid reg 3(1). For the meaning of 'use for trade' see PARA 66 ante.

4 Ibid reg 3(2)(a).

5 Ibid reg 3(2)(b).

6 Ibid reg 3(2)(c).

7 As to materials see *ibid* reg 4, reg 5 (amended by SI 1994/1851); as to shape see the Weights Regulations 1986, SI 1986/1683, Sch 2; as to adjusting holes see reg 6; and as to marking see reg 7, Sch 1 (amended by SI 1994/1851).

8 See the Weights Regulations 1986, SI 1986/1683, Pt III (regs 8, 9).

9 See *ibid* reg 10, Sch 4 (amended by SI 1994/1851).

10 See the Weights Regulations 1986, SI 1986/1683, reg 11, Sch 4 (amended by SI 1994/1851).

11 See the Weights Regulations 1986, SI 1986/1683, regs 12, 13.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/82. Alcoholometers and alcohol hydrometers.

(ii) Weighing and Measuring Instruments

82. Alcoholometers and alcohol hydrometers.

The Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977¹ apply to alcoholometers and alcohol hydrometers used to determine the alcoholic strength of mixtures of water and ethanol²; and the regulations make provision for:

- 331 (1) the Secretary of State³, on application being made for the purpose, to approve patterns of alcoholometers or alcohol hydrometers which comply with the relevant European Directive⁴;
- 332 (2) the Secretary of State to carry out initial verification of such instruments to determine whether they comply with the approved pattern granted in the United Kingdom or another member state, and with the requirements of the relevant European Directive; and the application of the mark of EEC initial verification⁵;
- 333 (3) offences, penalties and forfeiture of instruments⁶;
- 334 (4) powers of inspection of instruments and entry to premises for the purposes of enforcement⁷.

1 *Ie* the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753 (as amended). These regulations implement EC Council Directive 76/765 (OJ L262, 27.9.76, p 143) on alcoholometers and alcohol hydrometers (as amended) (see PARA 5 ante). As to the method of drawing up

figures for alcoholic strength by volume and alcoholic strength by mass see the Alcoholic Tables Regulations 1979, SI 1979/132, which implement EC Council Directive 76/766 (OJ L262, 27.9.76, p 149) (see PARA 5 ante)

2 Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753, reg 3. As to the fees payable in respect of EEC initial verification and EEC pattern approval of alcoholometers and alcohol hydrometers see the Measuring Instruments (EEC Requirements) (Fees) Regulations 2004, SI 2004/1300, regs 4, 5.

3 As to the Secretary of State see PARA 16 ante.

4 See the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753, reg 5 (amended by SI 1983/530; SI 1988/1128).

5 See the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753, reg 7, Schedule.

6 As to the effect of revocation of EEC pattern approval see *ibid* reg 8 (amended by SI 1983/530); as to the effect of non-extension of EEC pattern approval see the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753, reg 9; as to the temporary prohibition of sale or use see reg 10; as to the unauthorised application of EEC signs and marks etc see reg 12(1), (2); as to forfeiture see reg 12(3); as to the obstruction of inspectors see reg 14; as to offences by corporations see reg 15; as to prosecution and punishment of offences see reg 16; and as to fines see reg 17 (amended by SI 1985/306).

7 See the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977, SI 1977/1753, reg 13.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

82 Alcoholometers and alcohol hydrometers

NOTE 2--SI 2004/1300 Sch 1, which specifies the fees prescribed by regs 4, 5, amended by SI 2006/2679, SI 2007/3224, SI 2008/732, SI 2009/2748, SI 2010/728.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/83. Automatic catchweighing instruments.

83. Automatic catchweighing instruments.

The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003¹ apply to any automatic catchweighing instrument² for use for trade³, other than one which:

335 (1) is also capable of functioning as a non-automatic weighing instrument⁴, when the instrument is being so used as a non-automatic weighing instrument⁵;

- 336 (2) has been lawfully used for trade before 3 March 2004⁶; or
 337 (3) comprises an automatic catchweight weighing machine⁷, has been first passed as fit for use for trade before 3 March 2014⁸, and does not bear the marking 'R51'⁹.

The regulations contain provisions in relation to:

- 338 (a) the requirements that such instruments must satisfy in order to be passed as fit for use for trade¹⁰;
 339 (b) the testing of such instruments; and
 340 (c) the stamping of such instruments and the obliteration of stamps¹¹.

1 Ie the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761.

2 'Automatic catchweighing instrument' means an automatic weighing instrument which weighs pre-assembled discrete loads or single loads of loose material, but does not include: (1) an automatic weight grading instrument, that is to say, an instrument which sub-divides articles of different mass into several sub-groups each characterised by a given mass range; or (2) an automatic checkweighing instrument, that is to say, an instrument which sub-divides articles of different mass into two or more sub-groups according to the value of the difference between their mass and the nominal set point: *ibid* reg 2(1).

3 *Ibid* reg 3(1). Such instruments are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761, reg 3(1). For the meaning of 'use for trade' see PARA 66 ante.

4 Ie an instrument to which the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 apply (see PARA 96 post).

5 Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761, reg 3(2).

6 *Ibid* reg 3(3).

7 Ie for the purposes of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) (see PARA 95 post): Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761, reg 4(1)(a).

8 *Ibid* reg 4(1)(b).

9 *Ibid* reg 4(2).

10 See *ibid* Pt II (regs 5-9), Schs 2-4. As to the offence for breach of these and other requirements see the Weights and Measures Act 1985 s 15(3); and PARA 67 ante.

11 See the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761, Pt III (regs 10-16), Sch 5.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

83 Automatic catchweighing instruments

TEXT AND NOTES--See also the Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257 (amended by SI 2006/2625).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/84. Automatic gravimetric filling instruments.

84. Automatic gravimetric filling instruments.

The Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000¹ apply to filling instruments². The regulations contain provisions relating to:

- 341 (1) general duties, requirements to be satisfied for passing as fit for use for trade, supplementary requirements, and filling instruments imported from another EEA state³;
- 342 (2) testing and stamping including passing as fit for trade, limits of error, stamping, obliteration of stamps and the manner of such obliteration⁴.

1 The Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388 (as amended). The regulations implement in Great Britain the recommendation made by OIML (see OIML R 61) relating to automatic gravimetric filling instruments following the grant or renewal of a certificate of approval of pattern by the Secretary of State under the Weights and Measures Act 1985 s 12 (see PARA 73 ante). As to OIML see PARA 19 ante. For the meaning of 'Great Britain' see PARA 16 note 11 ante. As to the Secretary of State see PARA 16 ante.

2 Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388, reg 3(1). 'Filling instrument' means an instrument which: (1) serves to determine the mass of a load by using the action of gravity on that load without the intervention of an operator; (2) follows a predetermined programme of automatic processes characteristic of the instrument; (3) systematically sub-divides material from bulk into separate loads of a predetermined and virtually constant mass; and (4) effects an automatic feed and weighing of those loads with the appropriate control and discharge devices: reg 2(1). Such instruments are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388, reg 3(1). The Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388 (as amended) do not apply to any filling instrument which has been put into use for trade before the regulations came into force: reg 3(2). Nothing in the regulations applies to any filling instrument for use only for making up packages if, and only if, the packages are subsequently checked in accordance with the Weights and Measures Act 1985 s 49(1)(b) (see PARA 211 post); and for these purposes 'packages' means packages as defined in s 68(1) (see PARA 205 note 18 post): Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388, reg 3(3). For the meaning of 'use for trade' see PARA 66 ante. The Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388 (as amended) do not apply to a filling instrument: (a) which comprises a filling machine for the purposes of the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended) (see PARA 90 post); and (b) which has been first passed as fit for use for trade, for the purposes of the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended), by 17 July 2010: see the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388, reg 4(1). This exception does not apply in the case of a filling instrument which bears the marking 'R 61': see reg 4(2).

3 See *ibid* Pt II (regs 5-8), Schs 1-4 (amended by SI 2001/85; SI 2003/214).

4 See the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388, Pt III (regs 9-15), Sch 5.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

84 Automatic gravimetric filling instruments

TEXT AND NOTES--See also the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006, SI 2006/1258.

NOTE 2--SI 2000/388 reg 3(3) revoked: SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/85. Automatic rail-weighbridges.

85. Automatic rail-weighbridges.

The Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003¹ apply to automatic rail-weighbridges². The regulations contain provisions relating to:

- 343 (1) general duties, requirements to be satisfied for passing as fit for use for trade, supplementary requirements, and automatic rail-weighbridges imported from another EEA state³;
- 344 (2) testing and stamping including passing as fit for trade, limits of error, stamping, obliteration of stamps and the manner of such obliteration⁴.

¹ ie the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454. The regulations implement in Great Britain the recommendation made by OIML (see OIML R 106) relating to automatic rail-weighbridges, to the extent that the recommendation applies to such instruments following the grant or renewal of a certificate of approval of a pattern by the Secretary of State under the Weights and Measures Act 1985 s 12 (see PARA 73 ante). As to OIML see PARA 19 ante. For the meaning of 'Great Britain' see PARA 16 note 11 ante. As to the Secretary of State see PARA 16 ante.

² Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454, reg 3(1). 'Automatic rail-weighbridge' means an instrument which: (1) is used to determine the mass of a railway wagon when it is weighed in motion by using the action of gravity without the intervention of an operator; (2) follows a predetermined programme of automatic processes characteristic of the instrument; and (3) has one or more load receptors inclusive of rails for conveying railway vehicles and includes such of the other components as are specified in the certificate of approval: reg 2(1). Such instruments are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454, reg 3(1). The Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454, do not apply to any automatic rail-weighbridge which has been put into use for trade before the regulations came into force (ie 1 February 2004): reg 3(2). For the meaning of 'use for trade' see PARA 66 ante. The Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454, do not apply to an automatic rail-weighbridge: (a) which comprises an automatic weighing machine for the purposes of

the Weights and Measures Regulations 1963, SI 1963/1710 (as amended) (see PARA 86 post); and (b) which has been first passed as fit for use for trade, for the purposes of the Weights and Measures Regulations 1963, SI 1963/1710 (as amended), by 1 February 2014: see the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454, reg 4(1). This exception does not apply in the case of an automatic rail-weighbridge which bears the marking 'R 106': see reg 4(2).

3 See *ibid* Pt II (regs 5-8), Schs 2-5.

4 See *ibid* Pt III (regs 9-12), Sch 6.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

85 Automatic rail-weighbridges

TEXT AND NOTES--See also the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006, SI 2006/1256 (amended by SI 2006/2625).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/86. Automatic weighing machines.

86. Automatic weighing machines.

The Weights and Measures Regulations 1963¹ apply to all weighing and measuring equipment² consisting of automatic weighing machines³ for use for trade⁴; but, in so far as they relate to the material of which any such equipment is to be made, the regulations do not apply to equipment for use in the manufacture of explosives⁵. Nor do the regulations apply to any weighing or measuring equipment of the following descriptions:

- 345 (1) weighing equipment for use only for weighing coins or currency notes for the purpose of determining their number⁶;
- 346 (2) weighing equipment for use only for making up packages⁷ if, and only if, the packages are subsequently duly checked⁸;
- 347 (3) weighing equipment⁹ for use only in checking packages¹⁰;
- 348 (4) beltweighers¹¹;
- 349 (5) filling machines and discontinuous totalisers¹²;
- 350 (6) automatic check weighing machines and weight grading machines¹³;
- 351 (7) non-automatic weighing machines¹⁴;
- 352 (8) automatic rail-weighbridges¹⁵; and
- 353 (9) automatic catchweighing instruments¹⁶.

Weighing and measuring equipment must be submitted for testing and tested in a clean condition¹⁷; and, when so submitted for testing, such equipment must be complete in itself and must not bear a maker's mark or any trade mark which, in the opinion of the inspector¹⁸, might reasonably be mistaken for the prescribed stamp¹⁹.

The regulations contain provisions relating to:

- 354 (a) the requirements with regard to materials, principles of construction and marking of such machines²⁰;
- 355 (b) the passing of such equipment as fit for use for trade²¹; and
- 356 (c) the stamping of such equipment and the obliteration of such stamps²².

1 Ie the Weights and Measures Regulations 1963, SI 1963/1710 (as amended).

2 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

3 'Automatic weighing machine' means a machine in which special self-acting machinery is introduced to effect an automatic feed, the rapid weighing of given loads, the registration and summation of loads, and other similar purposes or some of them: Weights and Measures Regulations 1963, SI 1963/1710, reg 140(1).

4 Ibid reg 1(1) (amended by SI 1970/1370; SI 1986/1682; SI 1988/876; SI 1995/735; SI 2001/85; SI 2001/599; SI 2003/214). Such equipment is prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weights and Measures Regulations 1963, SI 1963/1710, reg 1(1) (as so amended); Interpretation Act 1978 s 17(2)(b). For the meaning of 'use for trade' see PARA 66 ante.

5 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(1) proviso. Regulation 1(2) (as amended) lists other equipment to which the regulations do not apply: see heads (1)-(9) in the text. Regulation 1(2) (as amended) refers to capacity serving measures (see reg 1(2)(h) (substituted by SI 1988/120)), but such measures are not included in the list in the text as they appear to be irrelevant in the context of automatic weighing machines.

6 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(b).

7 For these purposes, 'packages' means packages as defined in the Weights and Measures Act 1985 s 68(1) (see PARA 207 post): Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2) (amended by SI 1979/1612); Interpretation Act 1978 s 17(2)(b).

8 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(d). The text refers to checking in accordance with the Weights and Measures Act 1985 s 49(1)(b): see PARA 211 head (2) post.

9 Ie machines specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 13, Sch 4 para 7 (amended by SI 1992/1580; SI 2000/3236).

10 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(e) (added by SI 1979/1612). The text refers to checking of packages in accordance with the Weights and Measures Act 1985 s 49(1)(b) or s 49(2)(a) (see PARA 211 post).

11 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(g) (added by SI 1983/914; and substituted by SI 2001/1208). The beltweighers referred to in the text are those to which the Weighing Equipment (Beltweighers) Regulations 1983, SI 1983/914 (revoked) or the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended) (see PARA 87 post) apply.

12 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(i) (added by SI 1986/1320; and substituted by SI 2000/388). The reference in the text is a reference to filling machines and discontinuous totalisers to which the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended) (see PARA 90 post) apply and to filling instruments to which the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388 (as amended) (see PARA 84 ante) apply, excepting so far as such machines, totalisers and instruments are capable of also being used as a non-automatic weighing machine.

13 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(j) (added by SI 1988/876).

14 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(k) (added by SI 1988/876). The Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(k) (as added) refers to non-automatic weighing machines to which the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988, SI 1988/876 (as amended) apply, but these regulations have now been consolidated as the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000/932 (as amended) (see PARA 95 post).

15 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(l) (added by SI 2003/2454). The reference in the text is a reference to automatic rail-weighbridges to which the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003, SI 2003/2454 (see PARA 85 ante) apply.

16 Weights and Measures Regulations 1963, SI 1963/1710, reg 1(2)(m) (added by SI 2003/2761). The reference in the text is a reference to automatic catchweighing instruments to which the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761 (see PARA 83 ante) apply.

17 Weights and Measures Regulations 1963, SI 1963/1710, reg 2. As to testing see also reg 64.

18 For the meaning of 'inspector' see PARA 22 note 7 ante.

19 Weights and Measures Regulations 1963, SI 1963/1710, reg 4. As to the prescribed stamp see PARA 69 note 8 ante.

20 See *ibid* regs 57-63B (amended by SI 1988/876).

21 See the Weights and Measures Regulations 1963, SI 1963/1710, reg 5 (amended by SI 1970/1370; SI 1974/1326; SI 1984/1446; SI 1988/876; SI 1995/735).

22 See the Weights and Measures Regulations 1963, SI 1963/1710, regs 6-8 (amended by SI 1969/81; SI 1970/1370; SI 1972/767; SI 1986/1682; SI 1988/876; SI 1995/735).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

86 Automatic weighing machines

TEXT AND NOTES 9, 10--SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659. 1985 Act s 49 repealed: SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/87. Beltweighers.

87. Beltweighers.

The Weighing Equipment (Beltweighers) Regulations 2001¹ apply to beltweighers² other than beltweighers for use for trade³ which bear the mark of EEC initial verification⁴.

There are detailed provisions relating to:

- 357 (1) the restrictions on the purposes for which beltweighers may be used for trade⁵;
- 358 (2) the materials and principles of construction and marking of beltweighers⁶;
- 359 (3) the erection and use of beltweighers for trade⁷; and
- 360 (4) the testing, passing as fit for use for trade and stamping and marking of beltweighers and the obliteration of such stamps⁸.

1 See the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended), which implement EC Council Directive 75/410 (OJ L183, 14.7.75, p 25) (see PARA 5 ante).

2 'Beltweigher' means weighing equipment of the belt conveyor type, being an automatic weighing instrument for continuously weighing a bulk product on a conveyor belt by the action of gravity without systematic subdivision of the mass and without interrupting the movement of the conveyor belt: Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208, reg 2(1).

3 For the meaning of 'use for trade' see PARA 66 ante.

4 Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208, reg 4(2). 'Mark of EEC initial verification' has the meaning assigned to it in the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 13 (see PARA 75 ante); Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208, reg 4(2). For the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante), beltweighers to which the Weighing Equipment (Beltweighers) Regulations 1983, SI 1983/914 (revoked subject to this saving) apply continue to be prescribed, and beltweighers to which the Weighing Equipment (Beltweighers) Regulations 2001, SI 2001/1208 (as amended) apply are also prescribed: reg 4(1).

5 See *ibid* reg 5.

6 See *ibid* Pt II (regs 6-8).

7 See *ibid* Pt III (regs 9-12).

8 See *ibid* Pt IV (regs 13-21) (amended by SI 2003/214).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

87 Beltweighers

TEXT AND NOTES--See also the Measuring Instruments (Beltweighers) Regulations 2006, SI 2006/1259.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/88. Clinical thermometers.

88. Clinical thermometers.

The Clinical Thermometers (EEC Requirements) Regulations 1993¹ relate to clinical mercury-in-glass, maximum reading thermometers designed to measure the internal temperature of humans or animals²; and the regulations:

- 361 (1) specify the signs of EEC pattern approval and EEC limited pattern approval and the mark of EEC initial verification³;
- 362 (2) provide for the free movement in the United Kingdom⁴ of clinical thermometers which bear the sign of EEC pattern approval and the mark of EEC initial verification⁵;
- 363 (3) provide for the approval by the Secretary of State⁶ of bodies to grant EEC pattern approval and to carry out EEC initial verification in respect of clinical thermometers⁷;
- 364 (4) enable approval bodies to charge fees for things done in performance of their functions⁸;
- 365 (5) provide for the grant by approved bodies of EEC pattern approval of clinical thermometers which comply with the relevant EC Council Directive⁹;
- 366 (6) provide for a sign of EEC pattern approval or EEC limited pattern approval to be affixed to clinical thermometers which conform to the approved pattern¹⁰;
- 367 (7) provide for approved bodies to carry out EEC initial verification of clinical thermometers to determine whether a pattern approval is in force and whether they conform to it and to the requirements of the relevant EC Council Directive¹¹;
- 368 (8) provide for a mark of EEC initial verification to be affixed to clinical thermometers which conform to the approved pattern and to the requirements of the relevant EC Council Directive¹²;
- 369 (9) restrict the making of applications for initial verification where an EEC limited pattern approval is subject to a condition limiting the number of clinical thermometers which may be submitted for initial verification¹³;
- 370 (10) prohibit the use for trade of clinical thermometers in respect of which EEC pattern approval has been revoked or has not been extended¹⁴;
- 371 (11) provide for the temporary prohibition of the sale or use of clinical thermometers in respect of which an EEC pattern approval is in force but which reveal in service a defect which makes them unsuitable for their intended use¹⁵;
- 372 (12) enable an inspector to obliterate EEC signs and marks in specified circumstances¹⁶;
- 373 (13) prohibit the unauthorised application of EEC signs and marks¹⁷; and
- 374 (14) make provision relating to powers of inspectors, obstruction of inspectors, offences by corporations, the institution of proceedings, and penalties¹⁸.

1 The Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360 (as amended). These regulations implemented EC Council Directive 76/764 (OJ L262, 27.9.76, p 139) on clinical mercury-in-glass, maximum reading thermometers (as amended), but this Directive is no longer in force. See now EC Council Directive 93/42 concerning medical devices (OJ L169, 12.7.93, p 1) (as amended). See PARA 5 ante.

2 Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360, reg 3.

3 See *ibid* reg 4, Schedule.

4 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

- 5 See the Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360, reg 5 (amended by SI 1994/3017).
- 6 As to the Secretary of State see PARA 16 ante.
- 7 See the Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360, reg 6(1)-(5) (amended by SI 1994/3017).
- 8 See the Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360, reg 6(6)-(9).
- 9 See *ibid* reg 7 (amended by SI 1994/3017).
- 10 See the Clinical Thermometers (EEC Requirements) Regulations 1993, SI 1993/2360, reg 8.
- 11 See *ibid* reg 9(1), (2).
- 12 See *ibid* reg 9(3), (4).
- 13 See *ibid* reg 10.
- 14 See *ibid* reg 11.
- 15 See *ibid* reg 12.
- 16 See *ibid* reg 13.
- 17 See *ibid* reg 14.
- 18 See *ibid* regs 15-19.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/89. Cold-water meters.

89. Cold-water meters.

Statutory provision has been made for the certification, inspection and testing of cold-water meters, but this is dealt with elsewhere in this work¹.

¹ See the Measuring Equipment (Cold-water Meters) Regulations 1988, SI 1988/997 (as amended); the Water (Meters) Regulations 1988, SI 1988/1048 (as amended); and PARA 9 note 3 ante.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

89 Cold-water meters

TEXT AND NOTES--See also Measuring Instruments (Cold-water Meters) Regulations 2006, SI 2006/1268 (amended by SI 2006/2625).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/90. Filling and discontinuous totalising automatic weighing machines.

90. Filling and discontinuous totalising automatic weighing machines.

The Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986¹ apply to automatic weighing machines² which are filling machines³ or discontinuous totalisers⁴ for use for trade⁵; and the regulations contain provisions relating to:

- 375 (1) materials, the principles of construction, and marking of automatic weighing machines consisting of filling machines and discontinuous fillers⁶;
- 376 (2) the principles of construction and marking of filling machines, their manner of erection and use for trade and their testing⁷;
- 377 (3) the principles of construction and marking of discontinuous totalisers, their manner of erection and use for trade and their testing⁸;
- 378 (4) the prescribed limits of error for automatic weighing machines consisting of filling machines and discontinuous fillers⁹;
- 379 (5) the passing of automatic weighing machines consisting of filling machines and discontinuous fillers as fit for use for trade¹⁰; and
- 380 (6) the stamping of automatic weighing machines consisting of filling machines and discontinuous fillers and the obliteration of such stamps¹¹.

1 le the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320 (as amended). The regulations are disapplied in respect of any filling instrument which is an automatic gravimetric filling instrument due to the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000, SI 2000/388 (as amended) (see PARA 84 ante): see PARA 86 ante.

2 'Automatic weighing machine' means weighing equipment that includes a machine which accomplishes a weighing operation without intervention by an operator and which sets in motion an automatic process characteristic of the machine: Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320, reg 2(1).

3 'Filling machine' means an automatic weighing machine which systematically subdivides material in bulk into separate loads of a predetermined mass and effects an automatic feed and weighing of them: *ibid* reg 2(1).

4 'Discontinuous totaliser' means a discontinuous totalising automatic weighing machine which systematically subdivides material in bulk into separate loads, determines the mass of material in each load, effects a summation of loads and discharges the material into bulk: *ibid* reg 2(1).

5 See *ibid* reg 3(1). Such machines are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320, reg 3(1). For the meaning of 'use for trade' see PARA 66 ante. No person may use for trade an automatic weighing machine except for the purpose of weighing material values of which, expressed in units of measurement of mass, are neither less than the value of the minimum load and the minimum totalised load nor more than the value of the maximum capacity: reg 4.

6 See *ibid* Pt II (regs 5-13) (amended by SI 1994/1851; SI 2001/85).

7 See the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320, Pt III (regs 14-23A), Sch 1 (Pt III amended by SI 2000/387; SI 2003/214).

8 See the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986, SI 1986/1320, Pt IV (regs 24-32A), Sch 2.

9 See *ibid* reg 33, Sch 3.

10 See *ibid* reg 34.

11 See *ibid* regs 35-40.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

90 Filling and discontinuous totalising automatic weighing machines

TEXT AND NOTES--See also the Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006, SI 2006/1255.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/91. Measuring container bottles.

91. Measuring container bottles.

The Measuring Container Bottles (EEC Requirements) Regulations 1977¹ apply only to bottles used as measuring containers²; and the regulations include provisions relating to:

- 381 (1) the EEC sign for such bottles³;
- 382 (2) the manufacturer's identification mark⁴;
- 383 (3) the duties of manufacturers to keep production control records⁵;
- 384 (4) powers of inspection and entry⁶;
- 385 (5) individual measuring container bottles⁷;
- 386 (6) offences and penalties⁸; and
- 387 (7) enforcement⁹.

1 le the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932 (as amended), implementing EC Council Directive 75/107 (OJ L42, 15.2.75, p 14) on bottles used as measuring containers (see PARA 5 ante).

By virtue of the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment and Specification) Order 2003, SI 2003/1400, art 6, Sch 4, the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932 (as amended) are subject to the Enterprise Act 2002 Pt 9 (ss 237-247), Schs 14, 15 relating to disclosure of information: see generally SALE OF GOODS AND SUPPLY OF SERVICES; COMPETITION vol 18 (2009) PARA 326 et seq.

2 Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 3. The definition of 'weighing or measuring equipment' in the Weights and Measures Act 1985 s 94(1) (see PARA 27 note 3 ante) does not include measuring container bottles bearing the EEC sign: Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 4. Measuring container bottles are used to determine the quantity of liquids which are packed under the average quantity system under the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): see PARA 205 et seq post.

3 See the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 5.

4 See *ibid* reg 6.

5 See *ibid* reg 7.

6 See *ibid* reg 8.

7 See *ibid* reg 9.

8 See *ibid* regs 10-12, 14 (amended by SI 1985/306).

9 See the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 13.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

91 Measuring container bottles

NOTE 1--SI 2003/1400 Sch 4 amended: SI 2007/1846.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/92. Measuring equipment for intoxicating liquor.

92. Measuring equipment for intoxicating liquor.

The Measuring Equipment (Intoxicating Liquor) Regulations 1983¹ apply to measuring equipment² for use for trade³ on premises where intoxicating liquor is sold by retail for the purpose of making any measurement of liquor in a quantity not exceeding two pints⁴. The regulations contain provisions relating to:

- 388 (1) the principles of construction and marking of measuring equipment⁵;
- 389 (2) the testing of measuring equipment⁶;
- 390 (3) the prescribed limits of error⁷;
- 391 (4) the passing of measuring equipment as fit for use for trade⁸;
- 392 (5) the provision of plugs, seals or sealing devices⁹; and
- 393 (6) the stamping of measuring equipment and the obliteration of such stamps¹⁰.

1 le the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656 (as amended).

2 'Measuring equipment' means any measuring equipment, other than a capacity measure, including a measuring device, ancillary equipment associated with it and any other equipment physically or otherwise connected to it, whether or not such equipment has been connected to ensure correct measurement or is intended to facilitate operation of the measuring device and ancillary equipment: *ibid* reg 1(2). Such measuring equipment is prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656, reg 2; Interpretation Act 1978 s 17(2)(b). As to capacity measures see PARA 80 ante.

3 For the meaning of 'use for trade' see PARA 66 ante.

4 Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656, regs 1(1), 2 (amended by SI 1994/1851). For the meaning of 'pint' see PARA 43 ante.

5 See the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656, Pt II (regs 3-8) (amended by SI 1994/1851; SI 2001/85).

6 See the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656 Pt III (regs 9-13) (amended by SI 1984/273).

7 See the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656, reg 14.

8 See *ibid* reg 15.

9 See *ibid* reg 16.

10 See *ibid* regs 17-20.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

92 Measuring equipment for intoxicating liquor

NOTE 4--SI 1983/1656 reg 1(2) further amended: SI 2009/2463.

NOTE 6--SI 1983/1656 regs 9, 12 amended, reg 11A, 11B added: SI 2009/2463.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/93. Measuring equipment for liquid fuel.

93. Measuring equipment for liquid fuel.

The Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995¹ apply to all measuring equipment² for use for trade³ in the making of any measurement of liquid fuel⁴ in a quantity not exceeding 100 litres⁵, other than equipment for use for trade in the making of any measurement of liquefied petroleum gas and liquefied natural gas⁶; but the regulations do not apply to any measuring equipment for use in the measurement by capacity of liquid fuel in a quantity not exceeding 100 litres which, in accordance with a programme of automatic control and without the intervention of an operator during the measuring process, measures quantities of those products to a constant nominal capacity, the quantities being kept separate⁷.

The regulations make provision for:

- 394 (1) the principles of construction and marking of measuring equipment for liquid fuel⁸;
- 395 (2) the testing of such measuring equipment⁹;
- 396 (3) the prescribed limits of error¹⁰;
- 397 (4) the attachment of a test report by the inspector (when the test is at the place of manufacture or assembly or at testing premises)¹¹;
- 398 (5) measuring equipment imported from an EEA state¹²;
- 399 (6) the passing of measuring equipment as fit for use for trade¹³; and
- 400 (7) the stamping of equipment and obliteration of such stamps¹⁴.

1 le the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014 (as amended).

2 'Measuring equipment' means any measuring equipment, other than a capacity measure, including a measuring device, ancillary equipment associated with it and any other equipment physically or otherwise connected to it, whether or not such equipment has been connected to ensure correct measurement or is intended to facilitate operation of the measuring device and ancillary equipment: *ibid* reg 1(2). Such measuring equipment is prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 2(1) (amended by SI 1998/2218).

3 For the meaning of 'use for trade' see PARA 66 ante. No person may use for trade any measuring equipment fitted with a price to pay indicating device in digital form if it indicates during a measuring operation a part of a penny in the amount of the price to be paid by the buyer: Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 3.

4 'Liquid fuel' includes liquid fuel, lubricants and any mixture of liquid fuel and lubricants: *ibid* reg 1(2).

5 For the meaning of 'litre' see PARA 42 ante.

6 Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 2(1), (3) (reg 2(1) amended by SI 1998/2218).

7 Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 2(2).

8 As to principles of construction and marking of equipment see *ibid* reg 4; as to marking of the name of the manufacturer see reg 5; as to sales indicators see reg 6 (substituted by SI 2003/2110); as to indication of the product delivered see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 6A (added by SI 2003/2110); as to markings on equipment see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 7 (amended by SI 2003/2110); as to the requirement for a buyer of fuel to have a view of the measuring operation etc see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 8 (amended by SI 2001/85); and as to the manner of use for trade see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 9.

9 As to the requirement for testing to be carried out under working conditions see *ibid* reg 10; as to the tests to be carried out by an inspector see reg 10A (added by SI 1998/2218; and amended by SI 2003/2110); as to the conditions for testing of measuring equipment see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 12 (substituted by SI 1998/2218); as to equipment fitted with a hose see the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 13; as to the provision of test liquid see reg 14; as to the opening of tanks etc see reg 15; and as to the closing of tanks etc see reg 16.

10 See *ibid* reg 17 (amended by SI 1998/2218; SI 2003/2110).

11 See the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 17A (added by SI 2003/2110).

12 See the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 18 (amended by SI 2003/214; SI 2003/2110).

13 See the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, reg 19 (amended by SI 1998/2218; SI 2003/2110).

14 See the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995, SI 1995/1014, regs 20-25.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

93 Measuring equipment for liquid fuel

TEXT AND NOTES--See also the Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006, SI 2006/1266.

NOTE 8--SI 1995/1014 reg 6A substituted: SI 2006/2234.

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94. Measuring equipment for liquid fuel delivered from road tankers.

The Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983¹ apply to all measuring equipment on road tankers² for use for trade³ in the making of any measurement of liquid fuel in a quantity dispensed from the tanker exceeding 100 litres⁴; but the regulations do not apply to any of the following measuring equipment:

- 401 (1) measuring equipment for use only for the delivery of liquefied gas, lubricating oils, or fuels with a kinematic viscosity exceeding a specified limit⁵; or
- 402 (2) measuring equipment for use only for the fuelling of aircraft, ships or hovercraft⁶.

No person may use for trade a contents gauging system⁷ or a meter measuring system⁸ except for the purpose of measuring delivered quantities of liquid fuel of not less than the minimum delivery marked on or adjacent to the indicator of the system⁹. Nor may a person use for trade a dipstick measuring system¹⁰ except for the purpose of measuring delivered quantities of liquid fuel of not less than 30 per cent of the nominal capacity marked on the tank of the compartment with which the dipstick is associated¹¹.

The regulations contain provisions relating to:

- 403 (a) the principles of construction and marking of measuring equipment consisting of a contents measuring system¹², a meter measuring system¹³ or a dipstick measuring system¹⁴;
- 404 (b) the manner of use for trade¹⁵;
- 405 (c) the testing of contents gauging systems¹⁶, meter measuring systems¹⁷ and dipstick measuring systems¹⁸; and
- 406 (d) measuring equipment imported from another member state or an EEA state¹⁹;
- 407 (e) the prescribed limits of error²⁰;
- 408 (f) the passing of measuring equipment as fit for use for trade²¹;
- 409 (g) the sealing and stamping of measuring equipment and the obliteration of such stamps²².

1 le the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390 (as amended).

2 'Road tanker' means any vehicle or trailer which carries liquid fuel in a tank forming part of the vehicle or trailer other than that containing the fuel which is used to propel the vehicle, and also includes any tank with a capacity exceeding 3m³ carried on a vehicle: *ibid* reg 2(1).

3 For the meaning of 'use for trade' see PARA 66 ante.

4 Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 3(1) (amended by SI 1986/1210; SI 1994/1851). For the meaning of 'litre' see PARA 43 ante. Such measuring equipment is prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 4.

The Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390 (as amended), except for regs 4, 5, 17, 36 (regs 5, 36 as amended), do not apply to meter measuring systems which bear the mark of EEC initial verification: reg 3(3) (added by SI 1986/1210). For these purposes, 'mark of EEC initial verification' means the mark described in the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 4(1), Sch 1 para 5 (as amended) (see PARA 75 note 28 ante): Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 3(4) (added by SI 1986/1210); Interpretation Act 1978 s 17(2)(b).

5 Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 3(2) (a) (amended by SI 1986/1210).

6 Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 3(2) (b).

7 'Contents gauging system' means any measuring equipment, not being a dipstick measuring system (see note 10 infra) or a meter measuring system (see note 8 infra), which determines the quantity of liquid fuel delivered from an associated compartment by measuring the height of the free surface of the liquid fuel from a reference point: *ibid* reg 2(1).

8 'Meter measuring system' means any measuring equipment which incorporates a mechanical flowmeter device to determine the quantity of liquid fuel delivered, and comprises all parts and devices from the source, including any anti-swirl device, from which the liquid is drawn to the point of discharge and all associated mechanical, optical, electrical or pneumatic equipment: *ibid* reg 2(1).

9 *Ibid* reg 5. Regulation 5 does not apply where a measurement is made only for the purpose of payments in respect of any customs or excise duty or where frustrated delivery has taken place and all reasonable precautions have been taken and all due diligence has been exercised to avoid a frustrated delivery: reg 5 proviso (amended by SI 1986/1210). 'Frustrated delivery' means a planned delivery which cannot be completed because: (1) there is not enough space in the customer's storage tank; or (2) continuing the delivery would result in prohibited mixing of fuels or contamination; or (3) a component of the measuring system breaks down: Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 2(1) (definition added by SI 1986/1210).

10 'Dipstick measuring system' means any measuring equipment comprising a compartment with a datum surface and an associated dipstick with a datum face: Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 2(1).

11 *Ibid* reg 6. Regulation 6 does not apply where a measurement is made only for the purpose of payments in respect of any customs or excise duty: reg 6 proviso.

12 See *ibid* regs 7-12 (amended by SI 1994/1851; SI 2001/85).

13 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, regs 7, 13-17 (amended by SI 1994/1851; SI 2001/85).

14 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, regs 18-35 (amended by SI 1986/1210; SI 1994/1851; SI 1995/3117).

15 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 36 (amended by SI 1986/1210).

16 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, regs 37-42.

17 See *ibid* regs 43-50.

18 See *ibid* regs 51-55.

19 See *ibid* reg 55A (added by SI 1995/3117; and amended by SI 2003/214).

20 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, reg 56.

21 See *ibid* reg 57 (substituted by SI 1995/3117).

22 See the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983, SI 1983/1390, regs 58-66 (amended by SI 1986/1210).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

94 Measuring equipment for liquid fuel delivered from road tankers

TEXT AND NOTES--See also the Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006, SI 2006/1269.

NOTE 13--SI 1983/1390 regs 11A, 16A further amended: SI 2009/3045.

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95. Non-automatic weighing machines; in general.

The Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000¹ apply to non-automatic weighing machines² for use for trade³ (subject to important exceptions for certain non-automatic weighing machines bearing the mark of EEC initial verification or having counting facilities or that are instruments⁴), other than non-automatic weighing machines of the following descriptions:

- 410 (1) counting machines⁵ without weight indicating⁶ or weight printing⁷ devices and which are for use only for counting the number of articles⁸;
- 411 (2) machines for use only for weighing coins or currency notes for the purpose of determining their number⁹;
- 412 (3) machines for use for grading by reference to their weight, for the purpose of trading transactions by reference to that grading, of hens' eggs in shell which are intended for human consumption¹⁰;
- 413 (4) machines for use only for weighing paint (other than paste paint)¹¹;
- 414 (5) machines for use only as vehicle check weighing machines¹² and bearing a conspicuous notice to that effect¹³;
- 415 (6) machines for use only for making up packages¹⁴ if, and only if, the packages are subsequently duly checked¹⁵;
- 416 (7) machines¹⁶ for use only in checking packages¹⁷;
- 417 (8) machines used for weighing persons which are made available for use by the public, whether on payment or otherwise¹⁸;
- 418 (9) customer check weighing machines¹⁹;
- 419 (10) certain automatic catchweight weighing machines²⁰.

The regulations contain provisions relating to:

- 420 (a) the purposes for which such non-automatic weighing machines may be used for trade²¹;

- 421 (b) the requirements with regard to materials, principles of construction and marking of such machines²²;
- 422 (c) the manner of erection and use for trade of such machines²³;
- 423 (d) the testing of such machines²⁴;
- 424 (e) the passing of such machines as fit for trade²⁵;
- 425 (f) the prescribed limits of error²⁶; and
- 426 (g) the stamping of such machines and the obliteration of such stamps²⁷.

1 le the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended), which revoke and replace the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988, SI 1988/876 (as amended). The regulations implement EC Council Directive 73/360 (OJ L335, 5.12.73, p 1) (as amended) (see PARA 5 ante).

2 'Non-automatic weighing machine' means weighing equipment that includes a machine which accomplishes a weighing operation and which requires the intervention of an operator during the weighing process, especially to deposit loads on, or remove loads from, the load receptor and also to determine the result of the weighing process, and includes an automatic catchweight weighing machine: Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 2(1). 'Automatic catchweight weighing machine' means an automatic weighing machine which determines, but does not regulate, the mass of individual items but does not include: (1) an automatic checkweighing machine (ie a machine which subdivides articles the mass of which varies on either side of a predetermined value); or (2) an automatic weight grading machine (ie a machine which subdivides articles of different mass for which there is no predetermined nominal mass): reg 2(1). 'Load receptor' means a part of a machine on which loads are placed for the purpose of their being weighed: reg 2(1). As to automatic catchweight weighing machines see also the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761; and PARA 83 ante.

3 Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(1). Such machines are prescribed for the purposes of the Weights and Measures Act 1985 s 11(1) (see PARA 69 ante): Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(1). For the meaning of 'use for trade' see PARA 66 ante.

4 Nothing in the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended), other than regs 4, 23-31, applies to any non-automatic weighing machine which bears the mark of EEC initial verification (reg 3(3)); nor does anything therein, other than regs 4(4), 23, 24, 31, apply to any weighing machine with counting facilities which: (1) has been in use for trade solely for counting before 1 November 1988; and (2) bears the legends 'Not to be used for weighing for trade' and 'Not to be used for direct trade with the public'; and (3) has not been passed as fit for use for trade and stamped (reg 3(4)). Nothing in the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) applies to any non-automatic weighing machine which is an instrument to which the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 (see PARA 96 post) apply: Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(5) (amended by SI 2000/3236). As to the mark of EEC initial verification see the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 2(1); the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, Sch 1 para 5; and PARA 75 note 28 ante.

5 'Counting machine' means a machine which, by weighing articles of uniform size and composition: (1) determines the number of such articles placed on or removed from its load receptor; or (2) detects when a predetermined number of such articles have been placed on or removed from its load receptor: Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 2(1).

6 'Weight indicating device' means a device which is not a weight printing device (see note 7 infra) and which indicates the weight of a load on an associated load receptor of the machine: *ibid* reg 2(1).

7 'Weight printing device' means a device which can print the weight of a load which is on an associated load receptor of the machine: *ibid* reg 2(1).

8 *Ibid* reg 3(2)(a).

9 *Ibid* reg 3(2)(b).

10 *Ibid* reg 3(2)(c).

11 *Ibid* reg 3(2)(d).

12 'Vehicle check weighing machine' means a non-automatic weighing machine which, in accordance with the Weights and Measures Act 1985 s 7(4)(a) (see PARA 66 head (i) ante), is made available for use for trade only for the purpose of checking compliance with statutory provisions regarding the weight and axle weight of road vehicles: Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 2(1).

13 Ibid reg 3(2)(e).

14 For these purposes, 'packages' means packages as defined in the Weights and Measures Act 1985 s 68(1) (see PARA 207 post): Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(2).

15 Ibid reg 3(2)(f). The text refers to checking in accordance with the Weights and Measures Act 1985 s 49(1)(b): see PARA 211 head (2) post.

16 The machines specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 13, Sch 4 para 7 (as amended).

17 Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(2)(g). The text refers to checking in accordance with the Weights and Measures Act 1985 s 49(1)(b) (see PARA 211 head (2) post) or s 49(2)(a) (see PARA 211 head (i) post).

18 Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(2)(h).

19 Ibid reg 3(2)(i). The reference in the text is a reference to non-automatic weighing machines which, in accordance with the Weights and Measures Act 1985 s 7(4)(a) (see PARA 66 head (i) ante), are made available for use for trade by prospective buyers of goods so that they may check the weight of the goods before purchasing them.

20 Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 3(2)(j) (added by SI 2003/2761). The machines referred to in the text are automatic catchweight weighing machines of accuracy Class III or Class IIII. As to accuracy classifications see the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, regs 9, 10, Sch 1.

Notwithstanding reg 3(2)(j) (as added), the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) apply to automatic catchweight machines of accuracy Class III or Class IIII which by 3 March 2014 are first passed as fit for use for trade for the purposes of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended): reg 3(6) (amended by SI 2003/2761). See also PARA 83 ante.

21 See the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 4.

22 See ibid Pt II (regs 5-22), Sch 1 (amended by SI 2001/85).

23 See the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, Pt III (regs 23-31).

24 See ibid Pt IV (regs 32-37), Sch 2 (amended by SI 2003/214).

25 See the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, reg 39.

26 See ibid reg 38, Sch 3.

27 See ibid regs 40-46.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

95 Non-automatic weighing machines; in general

NOTE 2--See also Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257 (amended by SI 2006/2625).

TEXT AND NOTES 14-17--Heads (6), (7) omitted: SI 2000/932 reg 3(2)(f), (g) revoked by SI 2006/659.

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96. Non-automatic weighing machines; EC requirements.

The Non-automatic Weighing Instruments Regulations 2000¹ apply to any instruments² other than:

- 427 (1) an instrument in respect of a pattern of which EEC pattern approval³ was granted or extended before 1 January 1993⁴ and which is in force and which bears a mark of EEC initial verification or of EEC partial verification⁵ which is first affixed before 1 January 2003⁶;
- 428 (2) an instrument which does not require EEC pattern approval and bears a mark of EEC initial verification or of EEC partial verification which is first affixed before 1 January 2003⁷;
- 429 (3) an instrument of a pattern in respect of which pattern approval is granted or extended under the Weights and Measures Act 1985⁸ and which is in force and which is first passed as fit for use for trade⁹ and stamped before 1 January 2003¹⁰;
- 430 (4) an instrument which does not require pattern approval¹¹ and is first passed as fit for use for trade and stamped before 4 April 1989¹²;
- 431 (5) an instrument which is not required to comply with the relevant regulations¹³, does not comply with the relevant requirements¹⁴ and is first put into service before 1 January 2003¹⁵.

The regulations contain provisions concerning the following matters:

- 432 (a) the placing on the market, putting into service and use of instruments¹⁶; the need for instruments used for Schedule 3 applications¹⁷ to satisfy the essential requirements¹⁸; information to be borne by instruments not subjected to EC verification¹⁹, EC unit verification²⁰ or EC declaration of type conformity²¹; instruments conforming with relevant national standards²²; the appropriate equipment for tests²³; and the designation of bodies to exercise functions²⁴;
- 433 (b) EC type-examination²⁵; EC verification²⁶; EC unit verification²⁷; quality system²⁸ approval and EC declaration of type conformity²⁹; supplemental provisions³⁰; EC surveillance³¹; the suspension of authority to make EC declarations of type conformity³²; the withdrawal of approval of a quality system³³; the affixing of CE marking³⁴, stickers etc³⁵; and conformity with other Directives of instruments with CE markings³⁶;

- 434 (c) the review of decisions of authorised persons³⁷; and the provision of information about judicial remedies to persons aggrieved by decisions³⁸;
- 435 (d) the unauthorised application of CE marking etc³⁹; disqualification stickers⁴⁰; disqualification stickers and re-qualification stickers (in respect of instruments which have been altered etc)⁴¹; immediate enforcement action⁴²; compliance notice procedures⁴³; and the unsuitable use of instruments used for trade⁴⁴;
- 436 (e) restrictions on the use of instruments for trade⁴⁵; the manner of erection of instruments⁴⁶; instruments marked with a temperature range⁴⁷; instruments marked with manner of use information⁴⁸; instruments fitted with printing devices⁴⁹; load receptors⁵⁰; operation of instruments⁵¹; weights marked with EEC initial verification marks to be used⁵²; instruments using decimal parts of a pound⁵³; and instruments to be set to zero or to be balanced before use⁵⁴;
- 437 (f) powers of inspection and entry⁵⁵; the obstruction of authorised persons⁵⁶; offences and penalties⁵⁷; offences by corporations⁵⁸; and prosecutions⁵⁹.

1 Ie the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, implementing EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) on non-automatic weighing instruments (as amended) (see PARA 5 ante). The Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995, SI 1995/1907 (as amended) are revoked: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 1(2).

2 'Instrument' means a non-automatic weighing instrument, including ancillary equipment, which: (1) requires the intervention of an operator during weighing; and (2) serves to determine the mass or weight of any thing by using the action of gravity on that thing, whether or not it may also determine related matters such as price, quantity or magnitude on the basis of mass or weight: *ibid* reg 2(2).

3 See note 6 *infra*.

4 Ie under the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 ante) or by any member state other than the United Kingdom. For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

5 See note 6 *infra*.

6 Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 3(2)(a). Such affixing is under the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 ante) or by any member state other than the United Kingdom. For the avoidance of doubt, the Weights and Measures Act 1985, the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 ante) and the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) (see PARA 95 ante) continue to apply to instruments to which the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, do not apply by virtue of reg 3(2): reg 3(3). As to the fees payable in respect of EEC initial verification, EEC pattern approval, designation of approved bodies, the grant of an EC type-approval certificate and EC unit verification see the Measuring Instruments (EEC Requirements) (Fees) Regulations 2004, SI 2004/1300, regs 4-8.

For the purposes of the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 3: (1) a grant of EEC pattern approval, an exemption from such approval or the affixing of a mark of EEC initial verification must be in accordance with the relevant provisions of the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) or, in the case of any other member state, in accordance with the relevant provisions of measures in force which implement EC Council Directive 73/360 (OJ L335, 5.12.73, p 1) on non-automatic weighing machines (as amended) (see PARAS 5, 75 ante); and (2) the affixing of an EEC mark of partial verification must be in accordance with the relevant provisions of the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) or, in the case of any other member state, in accordance with the relevant provisions of EC Council Directive 71/316 (OJ L202, 6.9.71, p 1) on common provisions for both measuring instruments and methods of metrological control (as amended) (see PARAS 5, 75 ante): Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 3(4).

7 *Ibid* reg 3(2)(b). Such affixing is under the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 ante) or by any member state other than the United Kingdom.

8 Ie under the Weights and Measures Act 1985 s 12: see PARA 73 ante.

9 For the meaning of 'use for trade' see PARA 66 ante.

10 Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 3(2)(c). As to such passing and stamping see the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988, SI 1988/876 (revoked) or the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000/932 (as amended); and PARA 95 ante.

11 See note 6 supra.

12 Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 3(2)(d). As to such passing and stamping see the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988, SI 1988/876 (revoked); and PARA 95 ante.

13 Ie either the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186 (as amended) (see PARA 75 ante) or the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (as amended) (see PARA 95 ante): see heads (1)-(4) in the text.

14 Ie the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 5 or reg 6, as the case may require.

15 Ibid reg 3(2)(e).

16 See ibid reg 4, Sch 3.

17 'Schedule 3 application', in relation to an instrument, means an application described in ibid Sch 3: reg 2(2).

18 See ibid reg 5. 'Essential requirements' means the requirements in EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) Annex 1 which are set out in the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, Sch 2: reg 2(2).

19 'EC verification' means the procedure whereby the manufacturer or his authorised representative ensures and declares in accordance with EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) Annex II para 3 that an instrument: (1) has been checked in accordance with Annex II para 3.3 (ie, in the case of an instrument subject to the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, in accordance with the reg 11(4) under which the approved body carries out examinations and tests); (2) is, where appropriate, in conformity with the type described in the EC type-approval certificate; and (3) satisfies the requirements of EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (as amended) which apply to it: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2). 'EC type-approval certificate' means a certificate issued by the Secretary of State under reg 10 or by an approved body designated by another member state, as the case may be: reg 2(2). As to the Secretary of State see PARA 16 ante.

20 'EC unit verification' means the procedure whereby the manufacturer or his authorised representative ensures and declares that an instrument generally intended for a specific application, in respect of which a certificate referred to in EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) Annex II para 4.2 has been issued (ie, in the case of an instrument in respect of which application for the appropriate examinations and tests referred to in the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 12(3) is made to the Secretary of State, a certificate referred to in reg 12(4)(a)(ii)) conforms with the requirements of EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (as amended) which apply to it: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2).

21 See ibid reg 6. 'EC declaration of type conformity' means the declaration of type conformity referred to in ibid reg 13(7): reg 2(2).

22 See ibid reg 7. 'Relevant national standard' means a standard which is applicable to the instrument in question and of which the reference number is published in the United Kingdom by the Secretary of State in such manner as he considers appropriate, or in another member state by the competent authority, and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities: reg 2(2).

23 See ibid reg 8.

24 See ibid reg 9. The functions referred to in the text are those under the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236.

25 See ibid reg 10. 'EC type-examination' means the procedure whereby the Secretary of State verifies and certifies that a type conforms with the provisions of EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (as amended) which apply to it: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2).

26 See ibid reg 11.

27 See *ibid* reg 12.

28 'Quality system' means all the elements, requirements and provisions adopted by the manufacturer to ensure conformity of instruments with the approved type and the requirements of EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) (as amended) which apply to them and includes, in particular: (1) the quality objectives and the organisational structure, responsibilities and powers of the managerial staff with regard to product quality; (2) the manufacturing process, the quality control and assurance techniques, and the systematic measures that will be used during manufacture; (3) the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out; and (4) the means to monitor the achievement of the required product quality and the effective operation of the quality system: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2).

29 See *ibid* reg 13.

30 See *ibid* reg 14. The reference in the text is a reference to provisions supplemental to regs 11-13.

31 See *ibid* reg 15. 'EC surveillance' means the procedure whereby an approved body ensures that a manufacturer who makes an EC declaration of type conformity in respect of instruments manufactured by him properly fulfils the obligations arising out of the approved quality system specified in EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) Annex II para 2: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2).

32 See *ibid* reg 16.

33 See *ibid* reg 17.

34 'CE marking' has the meaning assigned to it in the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 18(5); and, where the context so permits, references in the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, to the CE marking include references to the EC mark of conformity affixed under the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992, SI 1992/1579 (revoked) and to the CE marking, or EC mark of conformity, affixed under provisions of the law of another member state corresponding to the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236: reg 2(2).

35 See *ibid* reg 18, Schs 2, 4. 'Sticker', except in the definitions of 'disqualification sticker' and 're-qualification sticker', means a green sticker measuring at least 12.5 millimetres by 12.5 millimetres square bearing a capital letter 'M' printed in black and referred to in EC Council Directive 90/384 (OJ L189, 20.7.90, p 1) Annex IV para 1: Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, reg 2(2). 'Disqualification sticker' means: (1) a sticker the design of which is published in the United Kingdom by the Secretary of State; or (2) a sticker, symbol or other device the design of which is approved in another member state by the competent authority, and which indicates that an instrument to which it is affixed does not satisfy the requirements of reg 5 or of corresponding provisions under the law of another member state: reg 2(2). 'Re-qualification sticker' means a sticker the design of which is published by the Secretary of State and which indicates that an instrument to which it is affixed satisfies the requirements of reg 5: reg 2(2).

36 See *ibid* reg 19.

37 See *ibid* reg 20. The reference in the text is a reference to authorised persons under regs 1-27. 'Authorised person' means an inspector, or some other person employed by a local weights and measures authority, who is authorised by the chief inspector of weights and measures of that authority to exercise the functions under the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236, in its area: reg 2(2). As to inspectors of weights and measures see PARA 23 ante.

38 See *ibid* reg 21. The reference in the text is a reference to decisions under the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236.

39 See *ibid* reg 22.

40 See *ibid* reg 23, Sch 2. The reference in the text is a reference to disqualification stickers (see note 35 *supra*) in respect of instruments not complying with the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236.

41 See *ibid* reg 24.

42 See *ibid* reg 25.

43 See *ibid* reg 26.

- 44 See ibid reg 27.
- 45 See ibid reg 28.
- 46 See ibid reg 29.
- 47 See ibid reg 30.
- 48 See ibid reg 31.
- 49 See ibid reg 32.
- 50 See ibid reg 33.
- 51 See ibid reg 34.
- 52 See ibid reg 35.
- 53 See ibid reg 36.
- 54 See ibid reg 37.
- 55 See ibid reg 38.
- 56 See ibid reg 39.
- 57 See ibid reg 40.
- 58 See ibid reg 41.
- 59 See ibid reg 42.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

96 Non-automatic weighing machines; EC requirements

TEXT AND NOTES--Directive 90/384 replaced: European Parliament and EC Council Directive 2009/23 (OJ L122, 15.5.2009, p 6); references to the repealed directive should be construed as references to Directive 2009/23: art 17, Annex VIII.

NOTE 6--SI 2004/1300 reg 6 substituted: SI 2006/2679. SI 2004/1300 reg 7 amended: SI 2010/728. As to fees payable in respect of the approval of a manufacturer's quality system and the carrying out of EC surveillance see SI 2004/1300 reg 8A (added by SI 2006/604, and amended by SI 2010/728); and in respect of the assessment of applications for certificates or notifications see SI 2004/1300 reg 8B (added by SI 2006/2679, and amended by SI 2010/728). Directive 71/316 replaced: European Parliament and EC Council Directive 2009/34 (OJ L106, 28.4.2009, p 7); references to

the repealed directive should be construed as references to Directive 2009/34: art 20, Annex IV.

NOTES 26, 27--SI 2000/3236 regs 11, 12 amended: SI 2008/738.

NOTE 29--SI 2000/3236 reg 13 amended: SI 2008/738.

NOTE 35--SI 2000/3236 reg 18 amended: SI 2008/738.

NOTE 37--Definition of 'authorised person' substituted: SI 2000/3236 reg 2(2) (amended by SI 2008/738). As to who can exercise the official functions relating to instruments which are given to authorised persons see SI 2000/3236 reg 2A (added by SI 2008/738).

NOTE 40--SI 2000/3236 Sch 2 amended: SI 2008/738.

NOTE 41--As to the affixing of re-qualification stickers see SI 2000/3236 reg 24A (added by SI 2008/738).

TEXT AND NOTE 44--Reference to trade is now to a Schedule 3 application: SI 2000/3236 reg 27 (amended by SI 2008/738).

NOTE 57--SI 2000/3236 reg 40 amended: SI 2008/738.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/97. Tanks of certain vessels.

97. Tanks of certain vessels.

The Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975¹ relate to the calibration of the tanks of inland waterway vessels and coastal vessels²; and the regulations provide for:

- 438 (1) the application for EC calibration to be made to the Secretary of State³, and for the calibration to be made in accordance with the relevant EC Council Directive⁴;
- 439 (2) the issue of a calibration certificate⁵;
- 440 (3) the fixing of a calibration plate to the tank⁶;
- 441 (4) the application to that plate of a sealing mark in the form of the mark of EC partial verification⁷;
- 442 (5) offences and penalties⁸; and
- 443 (6) powers of inspection of tanks and entry of vessels and premises for the purposes of enforcement⁹.

¹ The Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125 (as amended), which implement EC Council Directive 71/349 (OJ L239, 25.10.71, p 15) (see PARA 5 ante).

² See the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125, reg 2(1).

³ As to the Secretary of State see PARA 16 ante.

⁴ See the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125, regs 3, 4(1).

⁵ See *ibid* reg 4(1)(a), (2), (3), (6), (7).

⁶ See *ibid* reg 4(1)(b).

7 See *ibid* reg 5 (amended by SI 1988/1128).

8 See the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125, regs 8, 10-12, 13 (substituted by SI 1985/306).

9 See the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975, SI 1975/2125, reg 9.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/ (5) PARTICULAR TYPES OF EQUIPMENT/(ii) Weighing and Measuring Instruments/98. Taximeters.

98. Taximeters.

The Taximeters (EEC Requirements) Regulations 1979¹ apply to taximeters² not containing an electronic device in the measuring sequence³; and the regulations contain provisions relating to:

- 444 (1) EC pattern approval and partial verification in the United Kingdom⁴;
- 445 (2) whole measuring systems⁵;
- 446 (3) enforcement of conditions applicable to EC limited pattern approval⁶;
- 447 (4) the effect of revocation of EC pattern approval⁷;
- 448 (5) the effect of non-extension of EC pattern approval⁸;
- 449 (6) the temporary prohibition of sale⁹;
- 450 (7) the obliteration of EC signs and marks¹⁰;
- 451 (8) offences relating to the unauthorised application of EC signs and marks etc¹¹;
- 452 (9) powers of inspection and entry¹²; and
- 453 (10) obstruction of inspectors¹³.

1 See the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379 (as amended), implementing EC Council Directive 77/95 (OJ L26, 31.1.77, p 59) on taximeters (see PARA 5 ante).

2 'Taximeters' means instruments which, according to the characteristics of the vehicle in which they are installed and the tariffs for which they have been set, calculate automatically and indicate constantly when in use the fares to be paid by the users of taxi-cabs on the basis of the distance covered, and, below a certain speed, the time for which the vehicle is occupied exclusive of various surcharges which may be authorised by local regulations in force in member states: Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379, reg 2(1).

- 3 Ibid reg 3. As to the fees payable in respect of EEC initial verification and EEC pattern approval of taximeters see the Measuring Instruments (EEC Requirements) (Fees) Regulations 2004, SI 2004/1300, regs 4,5, Schs 1, 2.
- 4 See the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379, Pt II (regs 5-7) (amended by SI 1988/1128).
- 5 See the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379, reg 8.
- 6 See ibid reg 9.
- 7 See ibid reg 10.
- 8 See ibid reg 11.
- 9 See ibid reg 12.
- 10 See ibid reg 13.
- 11 See ibid regs 14, 17, 18, 19 (amended by SI 1985/306).
- 12 See the Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379, reg 15.
- 13 See ibid reg 16.

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

77-98 Particular Types of Equipment

See the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006, SI 2006/1270 (amended by SI 2006/2625); and the Measuring Instruments (Exhaust Gas Analysers) Regulations 2006, SI 2006/2164.

98 Taximeters

TEXT AND NOTES--See also the Measuring Instruments (Taximeters) Regulations 2006, SI 2006/2304.

NOTE 3--SI 2004/1300 Sch 1 amended: SI 2006/2679, SI 2007/3224, SI 2008/732, SI 2009/2748, SI 2010/728.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/4. EQUIPMENT FOR USE FOR TRADE/(6) FALSE OR UNJUST EQUIPMENT; FRAUD/99. Offences relating to false or unjust equipment or fraud.

(6) FALSE OR UNJUST EQUIPMENT; FRAUD

99. Offences relating to false or unjust equipment or fraud.

If any person uses for trade¹, or has in his possession² for use for trade, any weighing or measuring equipment³ which is false or unjust⁴, he is guilty of an offence and liable to a penalty⁵, and the equipment is liable to be forfeited⁶.

Without prejudice to the liability of any equipment to be forfeited, it is a defence for any person charged with such an offence in respect of the use for trade of any equipment to show:

- 454 (1) that he used the equipment only in the course of his employment by some other person⁷; and
- 455 (2) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect⁸, the equipment to be false or unjust⁹.

If any fraud¹⁰ is committed in the using of any weighing or measuring equipment for trade, the person committing the fraud, and any other person party to it, is guilty of an offence and liable to a penalty, and the equipment is liable to be forfeited¹¹.

1 For the meaning of 'use for trade' see PARA 66 ante.

2 For the meaning of 'possession' see *Bellerby v Carle* [1983] 2 AC 101, [1983] 1 All ER 1031, HL (a person cannot have in his possession weighing or measuring equipment unless he has some degree of control over it). See also *Bellamy v Great Western and Metropolitan Dairies Ltd* (1908) 98 LT 757 (churn not used as a measure).

3 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

4 Any instrument, including any weight, bearing: (1) the sign of EEC pattern approval and exemption from EEC initial verification; or (2) the mark of EEC initial verification, must not be found false or unjust, for the purposes of the Weights and Measures Act 1985 s 17(1), by reason solely of any inaccuracy in the functioning of the instrument, if the error in question is not such as to permit the obliteration of the sign or mark under the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 21(1)(a) (see PARA 75 ante): reg 6(3). Regulation 6 applies only if the sign or mark remains undefaced otherwise than by reason of fair wear and tear: reg 6(5). This restricts the application of the offence in the Weights and Measures Act 1985 s 17(1), which has been used to deal with scales which have eg a misleading action, thus giving rise to short weight or measure deliveries, although not outside the prescribed limits of error.

Unjustness is a question of fact, and, where the justices have found that fact, the conviction must be affirmed: *R v Baxendale* (1880) 44 JP Jo 763. It has been held that in an information either 'false' or 'unjust' should be chosen: *Moore v Ray* [1951] 1 KB 98, [1950] 2 All ER 561, DC; *Bastin v Davies* [1950] 2 KB 579, [1950] 1 All ER 1095, DC. An offence arises purely if the equipment does not weigh or measure accurately, whether the inaccuracy gives a deficiency or excess, 'unjust' meaning unjust: *Quality Dairies (York) Ltd v Pedley* [1952] 1 KB 275, [1952] 1 All ER 380, DC. A weighing machine which, from its construction, is liable to variation from atmospheric and other causes and needs adjustment before it is used is not 'false' or 'unjust' if it registers incorrectly without the customary correction before use by means of the appliance provided for that purpose: *London and North Western Railway Co v Richards* (1862) 2 B & S 326. Scales with an easily detachable adjusting device which would be false or unjust when that device is removed are unlawful even if they were registering correctly at any material time and there was no intent to defraud: *Carr v Stringer* (1868) LR 3 QB 433. If the pans of a balance can be reversed and in one position the balance is unjust, an offence is committed: *Henton v Radford* (1881) 45 JP 224. Where a machine used for weighing tea had on it under the scoop in which the tea was placed a piece of paper, the effect of which was to make the machine indicate a weight exceeding, by the weight of the paper, the weight of the tea in the scoop, the machine was found to be false and unjust: *Lane v Rendall* [1899] 2 QB 673. The use of a paper wrapping on a scale to facilitate weighing may render the scale unjust: *LCC v Payne & Co (No 2)* [1905] 1 KB 410, DC.

5 The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see the Weights and Measures Act 1985 ss 17(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post.

6 Ibid ss 17(1), 84(6). An inspector of weights and measures has the power to seize and detain within the area for which he was appointed any article which he has reasonable cause to believe is liable to be forfeited under Pt II (ss 7-17) (as amended): see s 79(2)(a); and PARA 27 head (a) ante. The offence of having possession for use for trade of any weighing or measuring equipment which is false or unjust, contrary to s 17(1), being an offence to which the defence in s 17(2) (see the text to notes 7-8 infra) does not apply, is an offence of strict liability: *Bellerby v Carle* [1983] 2 AC 101, [1983] 1 All ER 1031, HL.

7 Weights and Measures Act 1985 s 17(2)(a).

8 It is for the court to decide whether a person had reason to suspect: *McArdle v Egan* (1933) 150 LT 412, CA. See also *Nakkuda Ali v MF De S Jayaratne* [1951] AC 66, PC; cf *Liversidge v Anderson* [1942] AC 206, [1941] 3 All ER 338, HL.

9 Weights and Measures Act 1985 s 17(2)(b).

10 To defraud is to induce a course of action by deceit: *Re London and Globe Finance Corp Ltd* [1903] 1 Ch 728. Where a wrapper is weighed with goods in the presence of the customer and he raises no objection, there is no evidence of fraud: *Harris v Allwood* (1892) 57 JP 7. Evidence of a trade custom must be admitted when it is material to the question as to whether or not there has been fraud: *King v Spencer* (1904) 91 LT 470, DC. As to fraudulent use see *Harris v Allwood* supra; *King v Spencer* supra; *Stone v Tyler* [1905] 1 KB 290, DC; and as to fraudulent use by an employee see *Anglo-American Oil Co Ltd v Manning* [1908] 1 KB 536, DC.

11 Weights and Measures Act 1985 ss 17(3), 84(4)(a). The penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 17(3), 84(4)(a).

UPDATE

66-99 Equipment for Use for Trade

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/5. PUBLIC WEIGHING OR MEASURING EQUIPMENT/100. Keepers of public equipment to hold certificate.

5. PUBLIC WEIGHING OR MEASURING EQUIPMENT

100. Keepers of public equipment to hold certificate.

No person may attend to any weighing or measuring by means of weighing or measuring equipment¹ available² for use by the public³, being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from a chief inspector⁴ that he has sufficient knowledge for the proper performance of his duties⁵. Any person who contravenes⁶, or who causes or permits any other person to contravene, these provisions is guilty of an offence and liable to a penalty⁷.

Any person refused such a certificate by a chief inspector may appeal against the refusal to the Secretary of State⁸, who may, if he thinks fit, direct the chief inspector to grant the certificate⁹.

1 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

2 Availability is a matter of fact and it is sufficient in itself: *Buchanan v Motor Insurers' Bureau* [1955] 1 All ER 607, [1955] 1 WLR 488.

3 'Public' means the public at large or a substantial portion of the public. If only a restricted class of user is allowed, the equipment is not available: see *R v Beaumont* [1964] Crim LR 665, CCA; *Austin v Glendinning* (1968) 132 JP 513. If only a restricted class is excluded, the equipment is available: see *R v Waters* (1963) 47 Cr App Rep 149, CCA. Availability is not affected if a fee is charged to all comers for entry to the place where the equipment is (see *Glynn v Simmonds* [1952] 2 All ER 47, DC; *Panama (Piccadilly) Ltd v Newberry* [1962] 1 All ER 769, [1962] 1 WLR 610, DC); nor if it is restricted to certain times of use (see *R v Collinson* (1931) 23 Cr App Rep 49, CCA); nor if there is a right of entry in particular instances (see *Russell v Thompson* [1953] NI 51, CA).

4 For the meaning of 'chief inspector' see PARA 22 note 12 ante. As to the appointment and responsibilities of chief inspectors see PARA 23 ante.

5 Weights and Measures Act 1985 s 18(1).

6 As to the meaning of 'contravene' see PARA 46 note 12 ante.

7 Weights and Measures Act 1985 ss 18(3), 84(1),(2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 18(3), 84(1),(2). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post.

8 As to the Secretary of State see PARA 16 ante.

9 Weights and Measures Act 1985 s 18(2).

UPDATE

100-102 Public Weighing or Measuring Equipment

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/5. PUBLIC WEIGHING OR MEASURING EQUIPMENT/101. Provision of public equipment by local authorities.

101. Provision of public equipment by local authorities.

Without prejudice to any functions conferred or imposed by any other enactment, any local authority which is for the time being, or has at any time been, a local weights and measures authority¹ under the Weights and Measures Act 1985 or the Weights and Measures Act 1963² may provide and maintain within its area for use by the public³ such weighing or measuring equipment⁴ as may appear to the authority to be expedient⁵.

Without prejudice to the provisions of any other Act, and subject to the provisions relating to the need for keepers of public equipment to hold a certificate⁶, a local authority may employ persons to attend to any weighing or measuring by means of equipment provided by that authority for use by the public⁷.

Except in the case of a weighing or measuring for which, under any other Act, the charge falls to be regulated from time to time by some other person, a local authority by which any weighing or measuring equipment is provided for use by the public may make such charges for any weighing or measuring by means of that equipment as it may from time to time think fit⁸.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 The Weights and Measures Act 1963 was repealed by the Weights and Measures Act 1985 s 98(1), Sch 13 Pt I: see PARA 2 ante.

3 For the meaning of 'public' see PARA 100 note 3 ante.

4 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

5 Weights and Measures Act 1985 s 19(1). A number of local authorities provide public weighbridges, for weighing vehicles or large loads.

6 *Ie* subject to *ibid* s 18: see PARA 100 ante.

7 Ibid s 19(2).

8 Ibid s 19(3).

UPDATE

100-102 Public Weighing or Measuring Equipment

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/5. PUBLIC WEIGHING OR MEASURING EQUIPMENT/102. Offences in connection with public equipment.

102. Offences in connection with public equipment.

Where any article, vehicle (whether loaded or unloaded) or animal has been brought for weighing or measuring by means of weighing or measuring equipment¹ which is available for use by the public² and is provided for the purpose of weighing or measuring articles, vehicles or animals of the description in question³, then, if any person appointed to attend to weighing or measuring by means of the equipment in question:

- 456 (1) without reasonable cause fails to carry out the weighing or measuring on demand⁴;
- 457 (2) carries out the weighing or measuring unfairly⁵;
- 458 (3) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found⁶; or
- 459 (4) fails to make a record of the weighing or measuring, including the time and date of it and, in the case of the weighing of a vehicle, such particulars of the vehicle and of any load on the vehicle as will identify that vehicle and that load⁷,

he is guilty of an offence and liable to a penalty⁸.

If, in connection with any such equipment as is mentioned above:

- 460 (a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring⁹; or
- 461 (b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment¹⁰,

he is guilty of an offence and liable to a penalty¹¹.

If, in the case of a weighing or measuring of any article, vehicle or animal carried out by means of any such equipment as is mentioned above, the person bringing the article, vehicle or animal for weighing or measuring, on being required by the person attending to the weighing or measuring to give his name and address, fails to do so or gives a name or address which is incorrect, he is guilty of an offence and liable to a penalty¹².

The person making any weighing or measuring equipment available for use by the public ('the responsible person') must retain for a period of not less than two years any record of any

weighing or measuring by means of that equipment made by any person appointed to attend to the weighing or measuring¹³. An inspector¹⁴, subject to the production of his credentials¹⁵ if so requested, may require the responsible person to produce any such record for inspection at any time while it is retained by him¹⁶. If, however, the responsible person fails duly to retain any such record or fails so to produce it, he is guilty of an offence and liable to a penalty¹⁷. If any person wilfully destroys or defaces any such record before the expiration of two years from the date when it was made, he is guilty of an offence and liable to a penalty¹⁸.

1 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

2 For the meaning of 'public' see PARA 100 note 3 ante.

3 Weights and Measures Act 1985 s 20(1).

4 Ibid s 20(2)(a).

5 Ibid s 20(2)(b).

6 Ibid s 20(2)(c).

7 Ibid s 20(2)(d).

8 Ibid ss 20(2), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 20(2), 84(1), (2). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post.

9 Ibid s 20(3)(a).

10 Ibid s 20(3)(b).

11 Ibid ss 20(3), 84(4)(a), (6). The penalty on summary conviction, in the case of an offence under head (a) in the text, is a fine not exceeding level 5 on the standard scale and, in the case of an offence under head (b) in the text, is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 20(3), 84(4)(a), (6).

12 Ibid ss 20(4), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 20(4), 84(1), (2).

13 Ibid s 20(5).

14 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

15 For the meaning of 'credentials' see PARA 27 note 1 ante. For the meaning of 'local weights and measures authority' see PARA 20 ante.

16 Weights and Measures Act 1985 s 20(6).

17 Ibid ss 20(7), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 20(7), 84(1), (2).

18 Ibid ss 20(8), 84(1), (2). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see ss 20(8), 84(1), (2).

UPDATE

100-102 Public Weighing or Measuring Equipment

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(1) SCOPE OF THE STATUTORY PROVISIONS/103. In general.

6. TRANSACTIONS IN GOODS

(1) SCOPE OF THE STATUTORY PROVISIONS

103. In general.

Statutory provisions have laid down requirements to be complied with in transactions relating to a wide variety of particular goods and commodities¹. These requirements relate, among other things, to the extent to which those transactions must be conducted with reference to weight, length, measure of capacity or number, as the case may be, and as to how far and by what means the quantity dealt with in the transaction is to be made known to the buyer². The particular goods and commodities to which these provisions relate are:

- 462 (1) foods³;
- 463 (2) alcoholic liquor⁴;
- 464 (3) sand and ballast⁵;
- 465 (4) solid fuel⁶;
- 466 (5) miscellaneous goods, other than foods⁷; and
- 467 (6) composite goods and collections of articles⁸.

¹ The provisions relating to particular goods are contained in the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended), Schs 4-7 (as amended) (see PARA 105 et seq post) and in orders made under s 22 (see PARA 105 post).

² See PARA 117 et seq post.

³ See PARA 127 et seq post.

⁴ See PARA 159 et seq post.

⁵ See PARAS 168-170 post.

⁶ See PARA 171 et seq post.

⁷ See PARA 189 et seq post.

⁸ See PARA 204 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(1) SCOPE OF THE STATUTORY PROVISIONS/104. Validity of contracts.

104. Validity of contracts.

No contract for the sale or carriage for reward of any goods is void by reason only of a contravention¹ of any provision contained in or made under the Weights and Measures Act 1985 with respect to any document which is, or is required by that provision to be, associated with the goods².

1 As to the meaning of 'contravention' see PARA 46 note 12 ante.

2 Weights and Measures Act 1985 s 91.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(2) POWER TO MAKE ORDERS AND REGULATIONS/105. Secretary of State's power to make orders relating to transactions in particular goods.

(2) POWER TO MAKE ORDERS AND REGULATIONS

105. Secretary of State's power to make orders relating to transactions in particular goods.

The Secretary of State¹ may by order make provision with respect to any goods specified in the order for all or any of the following purposes, that is to say, to ensure that, except in such cases or in such circumstances as may be so specified, the goods in question:

- 468 (1) are sold only by quantity expressed in such manner as may be so specified²;
- 469 (2) are pre-packed³, or are otherwise made up in or on a container for sale or for delivery after sale, only if the container is marked with such information as to the quantity of the goods as may be so specified⁴;
- 470 (3) are pre-packed, or are otherwise made up for sale or for delivery after sale, only in or on a container of a size or capacity so specified⁵;
- 471 (4) are sold, or are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, or are made for sale, only in such quantities as may be so specified⁶;
- 472 (5) are not sold without the quantity sold expressed in such manner as may be so specified being made known to the buyer at or before such time as may be so specified⁷;
- 473 (6) are sold by means of, or are offered or exposed for sale in, a vending machine only if there is displayed on or in the machine such information as to the quantity of the goods in question comprised in each item for sale by means of that machine as may be so specified and a statement of the name and address of the seller⁸;

- 474 (7) are carried for reward only in pursuance of an agreement made by reference to the quantity of the goods in question expressed in such manner as may be so specified⁹;
- 475 (8) in such circumstances as may be so specified, have associated with them in such manner as may be so specified a document containing a statement of the quantity of the goods in question expressed in such manner, and a statement of such other particulars, if any, as may be so specified¹⁰; or
- 476 (9) when carried on a road vehicle along a highway are accompanied by a document containing such particulars determined in such manner as may be so specified as to the weight of the vehicle and its load apart from the goods in question¹¹.

Such an order may be made with respect to any goods¹², and may:

- 477 (a) make provision for any of the purposes mentioned above¹³ in such manner, whether by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of any of the provisions of the Weights and Measures Act 1985, except the provisions relating to packaged goods¹⁴, or of any previous such order¹⁵ or otherwise¹⁶;
- 478 (b) make such, if any, different provision for retail and other sales respectively¹⁷; and
- 479 (c) contain such consequential, incidental or supplementary provision, whether by such means as mentioned in head (a) above or otherwise¹⁸,

as may appear to the Secretary of State to be expedient, and may in particular make provision in respect of contraventions¹⁹ of the order for which no penalty is provided by the Weights and Measures Act 1985 for the imposition of penalties not exceeding those otherwise provided²⁰ for an offence under the Act²¹.

Without prejudice to the generality of the powers conferred by head (3) above, an order made by virtue of that head:

- 480 (i) may require a container to be marked with such information concerning it or its contents as is specified in the order²²; and
- 481 (ii) in order to prevent size or capacity from giving a false impression of the quantity of the goods in a container, may prescribe a minimum quantity²³ for the goods in a container of a given capacity²⁴.

1 As to the Secretary of State see PARA 16 ante.

2 Weights and Measures Act 1985 s 22(1)(a). In exercise of the power conferred by s 22(1) the Secretary of State has made the Weights and Measures (Carriage of Solid Fuel by Rail) Order 1987, SI 1987/216 (see PARAS 184-185 post); the Weights and Measures (Knitting Yarns) Order 1988, SI 1988/895 (see PARA 192 post); the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) (see PARA 160 et seq post); the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended) (see PARA 133 et seq post); the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884 (see PARAS 191, 202 post); and the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866. By virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended) (see PARA 127 et seq post) and the Weights and Measures (Liquid Fuel carried by Road Tanker) Order 1985, SI 1985/778, have effect as if so made. As to the making of orders see PARA 3 ante.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 Weights and Measures Act 1985 s 22(1)(b). See note 2 supra.

5 Ibid s 22(1)(c). See note 2 supra.

- 6 Ibid s 22(1)(d). See note 2 supra.
- 7 Ibid s 22(1)(e). See note 2 supra.
- 8 Ibid s 22(1)(f). See note 2 supra.
- 9 Ibid s 22(1)(g). See note 2 supra.
- 10 Ibid s 22(1)(h). See note 2 supra.
- 11 Ibid s 22(1)(i). See note 2 supra.
- 12 Ie including goods to which any of the provisions of ibid s 21, Sch 4 (as amended) (see PARAS 168-170 post), Sch 5 (as amended) (see PARA 171 et seq post), Sch 6 (as amended) (see PARA 190 et seq post) or Sch 7 (as amended) (see PARA 204 post) applies.
- 13 Ie the purposes mentioned in ibid s 22(1): see heads (1)-(9) in the text.
- 14 Ie ibid Pt V (ss 47-68) (as amended): see PARA 205 et seq post.
- 15 Ie under ibid s 22(1).
- 16 Ibid s 22(2)(a).
- 17 Ibid s 22(2)(b).
- 18 Ibid s 22(2)(c).
- 19 As to the meaning of 'contravention' see PARA 46 note 12 ante.
- 20 Ie by the Weights and Measures Act 1985 s 84(6): see PARA 229 post.
- 21 Ibid s 22(2). The Enterprise Act 2002 s 230 (notice to Office of Fair Trading of intended prosecution) applies to proceedings for an offence under the Weights and Measures Act ss 22, 23, 25, 28-32, 50(5), (6) by virtue of the Enterprise Act 2002 (Part 8 Notice to OFT of Intended Prosecution Specified Enactments, Revocation and Transitional Provision) Order 2003, SI 2003/1376: see **COMPETITION** vol 18 (2009) PARA 359.
- 22 Weights and Measures Act 1985 s 22(3)(a).
- 23 For these purposes, the minimum quantity may be expressed in the order by weight or volume, by percentage of the capacity of the container or in any other manner: ibid s 22(4).
- 24 Ibid s 22(3)(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

105 Secretary of State's power to make orders relating to transactions in particular goods

TEXT AND NOTE 14--Words 'except the provisions ... goods' omitted: 1985 Act s 22(2)(a) (amended by the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659).

NOTE 21--SI 2003/1376 amended: see SI 2008/1277 Sch 2 para 101, Sch 3 para 9.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(2) POWER TO MAKE ORDERS AND REGULATIONS/106. Secretary of State's power to make regulations as to information.

106. Secretary of State's power to make regulations as to information.

The Secretary of State¹ may make regulations:

- 482 (1) as to the manner in which any container² required³ to be marked⁴ with information, including in particular information as to quantity or capacity, is to be so marked⁵;
- 483 (2) as to the manner in which any information required by any such provision to be displayed on or in a vending machine is to be so displayed⁶;
- 484 (3) as to the conditions which must be satisfied in marking with information as to the quantity of goods made up in it the container in or on which any goods are made up for sale, whether by way of pre-packing⁷ or otherwise, where those goods are goods on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold is required by any such provision to be made known to the buyer at or before a particular time⁸;
- 485 (4) as to the units of measurement to be used in marking any such container or machine with any information⁹;
- 486 (5) for securing, in the case of pre-packed goods, that the container is so marked as to enable the packer to be identified¹⁰;
- 487 (6) as to the method by which and conditions under which quantity is to be determined in connection with any information relating to quantity otherwise required¹¹; and
- 488 (7) permitting, in the case of such goods and in such circumstances as may be specified in the regulations, the weight of such articles used in making up the goods for sale as may be so specified to be included¹² in the net weight¹³ of the goods¹⁴.

Any person who contravenes¹⁵ any regulation so made, otherwise than by virtue of head (6) or head (7) above, is guilty of an offence and liable to a penalty¹⁶.

1 As to the Secretary of State see PARA 16 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 Ie by any of the provisions of the Weights and Measures Act 1985 s 21, Sch 4 (as amended) (see PARAS 168-170 post), Sch 5 (as amended) (see PARA 171 post), Sch 6 (as amended) (see PARA 190 et seq post), Sch 7 (as amended) (see PARA 204 post), or of any order under s 22(1) (see PARA 105 ante).

4 As to the meaning of 'mark' see PARA 28 note 10 ante. Any power to make provision by statutory instrument with respect to the marking of any food which is conferred on any person other than the Secretary of State by any Act passed before 31 July 1963 (ie the date on which the Weights and Measures Act 1963 was passed) or by the Food Safety Act 1990 does not extend to the marking of such food with a statement of its quantity by weight or other measurement or by number: Weights and Measures Act 1985 s 93 (amended by the Food Safety Act 1990 s 59(1), Sch 3 para 33).

5 Weights and Measures Act 1985 s 23(1)(a). In exercise of the power conferred by s 23(1) the Secretary of State has made the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538 (as amended) (see PARAS 56 ante, 121 et seq post). By virtue of the Interpretation Act 1978 s 17(2) (b), the Weights and Measures (Solid Fuel) Regulations 1978, SI 1978/238 (see PARA 175 post) and the Weights and Measures (Milk and Solid Fuel Vending Machines) Regulations 1980, SI 1980/246 (see PARAS 147, 177 post) have effect as if so made. As to the making of regulations see PARA 3 ante.

- 6 Weights and Measures Act 1985 s 23(1)(b). See note 5 supra.
- 7 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 8 Weights and Measures Act 1985 s 23(1)(c). See note 5 supra.
- 9 Ibid s 23(1)(d). See note 5 supra.
- 10 Ibid s 23(1)(e). See note 5 supra.
- 11 Ibid s 23(1)(f). The reference in the text is a reference to a requirement by or under s 21 (see PARA 168 et seq post) or s 22 (see PARA 105 ante). See note 5 supra.
- 12 Ie for the purposes of ibid Pt IV (ss 21-46) (as amended).
- 13 For the meaning of 'net weight' see PARA 120 post.
- 14 Weights and Measures Act 1985 s 23(1)(g). See note 5 supra.
- 15 As to the meaning of 'contravene' see PARA 46 note 12 ante.
- 16 Weights and Measures Act 1985 ss 23(2), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 23(2), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to the prosecution of offences see PARA 226 post. As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(3) EXEMPTIONS/107. Exemptions.

(3) EXEMPTIONS

107. Exemptions.

The Secretary of State¹ may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements imposed² by the statutory provisions regulating transactions in goods³.

Until otherwise provided by an order so made, the following are exempted from all such requirements:

- 489 (1) goods made up in or on a container⁴ for sale only for use by Her Majesty's forces or by a visiting force⁵ and not sold or offered, exposed or in any person's possession for sale for any other use⁶;
- 490 (2) any sale of goods in the case of which the buyer gives notice in writing to the seller before the sale is completed that the goods are being bought for dispatch to a destination outside Great Britain⁷ and any designated country⁸ or for use as stores⁹ in a ship¹⁰ or aircraft on a voyage or flight to an eventual destination outside the United Kingdom¹¹ and the Isle of Man¹²;

- 491 (3) any goods sold, or offered, exposed or in any person's possession for sale only, for use or consumption at the premises¹³ of the seller, not being intoxicating liquor¹⁴; and
- 492 (4) any assortment of articles of food¹⁵ pre-packed¹⁶ together for consumption together as a meal and ready for such consumption without being cooked, heated or otherwise prepared¹⁷.

1 As to the Secretary of State see PARA 16 ante.

2 Ie the Weights and Measures Act 1985 s 21 (see PARA 168 et seq post), s 22 (see PARA 105 ante) and s 23 (see PARA 106 ante).

3 Ibid s 24(1). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Carriage of Solid Fuel by Rail) Order 1987, SI 1987/216 (see PARAS 184-185 post); the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) (see PARA 160 et seq post); the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended) (see PARA 133 et seq post); and the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884 (see PARAS 191, 201 post). By virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended) (see PARA 127 et seq post) and the Weights and Measures (Liquid Fuel Carried by Road Tanker) Order 1985, SI 1985/778, have effect as if so made. As to the making of orders see PARA 3 ante.

4 As to the meaning of 'container' see PARA 28 note 8 ante.

5 Ie within the meaning of any of the provisions of the Visiting Forces Act 1952 Pt I (ss 1-12) (as amended): see ARMED FORCES vol 2(2) (Reissue) PARA 135 et seq.

6 Weights and Measures Act 1985 s 24(2)(a).

7 For the meaning of 'Great Britain' see PARA 16 note 11 ante.

8 For the meaning of 'designated country' see PARA 66 note 6 ante.

9 Ie within the meaning of the Customs and Excise Management Act 1979: see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 413.

10 As to the meaning of 'ship' see PARA 27 note 5 ante.

11 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

12 Weights and Measures Act 1985 s 24(2)(b).

13 As to the meaning of 'premises' see PARA 27 note 5 ante.

14 Weights and Measures Act 1985 s 24(2)(c). For the meaning of 'intoxicating liquor' see PARA 46 note 8 ante.

15 'Food' has the same meaning as for the purposes of the Food Safety Act 1990 (see PARA 12 note 1 ante; and FOOD vol 18(2) (Reissue) PARA 201); Weights and Measures Act 1985 s 94(1) (amended by the Food Safety Act 1990 s 59(1), Sch 3 para 34).

16 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

17 Weights and Measures Act 1985 s 24(2)(d).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6.
TRANSACTIONS IN GOODS/(4) ALLEVIATION OF SHORTAGES/108. Power to alleviate shortages.

(4) ALLEVIATION OF SHORTAGES

108. Power to alleviate shortages.

Where it appears to the appropriate minister¹ that:

- 493 (1) any food or other goods² are or are likely to be, for a limited period of time, in short supply or unavailable in any area³; and
- 494 (2) the alleviation of that situation is or is likely to be seriously hindered by a relevant requirement⁴,

he may by order exclude or modify the relevant requirement in its operation in relation to the food or goods in question for a period specified in the order⁵. Such period must not exceed one year but may be extended on one or more occasions by a subsequent such order for a further period not exceeding one year⁶.

Such an order may attach conditions to the exclusion or modification of the relevant requirement and may, while it is excluded or modified:

- 495 (a) impose, as respects the food or goods, any requirement which could have been imposed as a relevant requirement⁷; or
- 496 (b) exclude, as respects the food or goods, any exception or exemption from a requirement duly imposed⁸.

Such an order:

- 497 (i) may impose on persons offending against the order penalties not exceeding the maximum penalties specified⁹ in relation to the relevant requirement¹⁰;
- 498 (ii) may be limited to an area which is only part of the territory to which the relevant requirement extends¹¹;
- 499 (iii) may, where so limited, make special provision for goods which are dealt with partly within the area and partly outside¹²;
- 500 (iv) may make different provision in relation to different cases or classes of cases, and may exclude specified cases or classes of cases¹³;
- 501 (v) may contain such incidental or supplemental provisions as appear to the appropriate minister to be expedient for the purposes of the order¹⁴.

An order may¹⁵ contain transitional provisions by reference to the beginning or end of the period for which the relevant requirement is excluded or modified¹⁶.

1 For these purposes, 'appropriate minister' means the Secretary of State, where the relevant requirement (see note 2 *infra*) was imposed under or by virtue of the Food Safety Act 1990 (see FOOD) or the Weights and Measures Act 1985: Weights and Measures etc Act 1976 s 12(9)(a), (c) (amended by the Weights and Measures Act 1985 s 97, Sch 12 para 7; and the Food Safety Act 1990 s 59(1), Sch 3 para 20(1)). The functions of the appropriate minister are carried out by the Secretary of State for Environment, Food and Rural Affairs where the relevant requirement was imposed under or by virtue of the Food Safety Act 1990, or the Secretary of State for Trade and Industry where the relevant requirement was imposed under or by virtue of the Weights and Measures Act 1985. As to the Secretary of State see PARA 16 *ante*.

2 The Weights and Measures etc Act 1976 s 12 (as amended) applies to food or goods in relation to which requirements are imposed under or by virtue of:

3 (1) the Food Safety Act 1990 s 16 (as amended) (food safety and consumer protection regulations: see FOOD vol 18(2) (Reissue) PARA 289); or

4 (2) the Weights and Measures Act 1985 s 21 (see PARA 168 et seq post), s 22 (see PARA 105 ante) or s 23 (see PARA 106 ante),

and a 'relevant requirement' means a requirement so imposed: Weights and Measures etc Act 1976 s 12(1)(a), (d) (amended by the Weights and Measures Act 1985 Sch 12 para 7; and the Food Safety Act 1990 Sch 3 para 20(1)). 'Requirement' includes any condition or prohibition: Weights and Measures etc Act 1976 s 12(8).

3 Ibid s 12(2)(a).

4 Ibid s 12(2)(b).

5 Ibid s 12(2). Before the appropriate minister makes such an order, he must consult, to the extent that it appears to him appropriate having regard to the subject matter of the order and the urgency of the matter, with such persons as appear to him to be representative of interests substantially affected by the order: s 13(1), (6). An order so made does not extend to any area to which the relevant requirement did not extend (s 13(3), (6)); but an order, when made, may be varied or revoked by a subsequent order so made (s 13(2)). An order must be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament: s 13(4).

6 Ibid s 12(3).

7 Ibid s 12(4)(a). An order under s 12 (as amended) may make provision for any of the purposes mentioned in s 12(4), (5), (6) by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any provision of the Act under or by virtue of which the relevant requirement is imposed and, except as provided by an order under s 12 (as amended), the provisions of Sch 6 (as amended) (temporary requirements imposed by emergency orders) have effect when a requirement is imposed under s 12(4): s 12(7).

8 Ibid s 12(4)(b).

9 Ie specified in the Acts mentioned in ibid s 12(1) (as amended): see note 2 supra.

10 Ibid s 12(5)(a).

11 Ibid s 12(5)(b).

12 Ibid s 12(5)(c).

13 Ibid s 12(5)(d).

14 Ibid s 12(5)(e).

15 Ie without prejudice to the generality of ibid s 12(5): see heads (i)-(v) in the text.

16 Ibid s 12(6).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

108 Power to alleviate shortages

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (5) OFFENCES/109. Misrepresentation.

(5) OFFENCES

109. Misrepresentation.

Any person who:

- 502 (1) on or in connection with the sale or purchase of any goods¹;
- 503 (2) in exposing or offering any goods for sale²;
- 504 (3) in purporting to make known to the buyer the quantity of any goods sold³; or
- 505 (4) in offering to purchase any goods⁴,

makes any misrepresentation⁵, whether oral or otherwise, as to the quantity of the goods, or does any other act calculated to mislead⁶ a person buying or selling the goods as to the quantity of the goods, is guilty of an offence⁷ and liable to a penalty⁸.

1 Weights and Measures Act 1985 s 29(1)(a). Nothing in s 29 applies in relation to any such goods or sales as are mentioned in s 24(2)(a) or (b) (see PARA 107 heads (1), (2) ante): s 29(3). Section 28(2) (see PARA 110 ante) has effect for the purposes of s 29 as it has effect for the purposes of s 28: s 29(2).

2 Ibid s 29(1)(b). Goods displayed in a self-service shop are not offered for sale but are exposed for sale: *Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd* [1953] 1 QB 401, [1953] 1 All ER 482, CA. Goods which had been made up by weight, marked with a weight and a customer's name but had not been ordered by a customer, were not offered for sale: *Wiles v Maddison* [1943] 1 All ER 315, DC. 'Expose for sale' means exposed to view in a situation where sales normally take place but need not afford an opportunity for examination by a customer: *Crane v Lawrence* (1890) 25 QBD 152; *Barlow v Terrett* [1891] 2 QB 107; *Wheat v Brown* [1892] 1 QB 418; *McNair v Terroni* [1915] 1 KB 526, *Ollett v Jordan* [1918] 2 KB 41; and see *Keating v Horwood* (1926) 135 LT 29, DC; *Winter v Hinckley and District Industrial Co-operative Society Ltd* [1959] 1 All ER 403, [1959] 1 WLR 182, DC. See note 1 supra.

3 Weights and Measures Act 1985 s 29(1)(c). See note 1 supra.

4 Ibid s 29(1)(d). See note 1 supra.

5 'Misrepresentation' means a representation concerning net weight which is incorrect: see *Huggett v Help Yourself Stores Ltd* [1934] 2 KB 230, DC. The representation need not be made by a party to the contract or pursuant to the contract: *Collett v Co-operative Wholesale Society Ltd* [1970] 1 All ER 274, [1970] 1 WLR 250, DC. See also *Brook v Crowson & Son Ltd* (1967) 65 LGR 265, DC (where it was held that in the case of a number of items each individually marked with an incorrect statement of weight each item constitutes an offence). In sales other than by retail, a trade custom as to the basis of a contract may negative any misrepresentation as to quantity: *GW Potts Ltd v Blakemore, Peter Martinelli Ltd v Blakemore* (1968) 66 LGR 589. As to misrepresentation generally see MISREPRESENTATION AND FRAUD vol 31 (2003 Reissue) PARA 701 et seq.

6 'Calculated to mislead' means 'likely' not 'intended': *Re McDowell's Application, McDowell v Standard Oil Co (New Jersey)* [1927] AC 632, HL; *R v Davison* [1972] 3 All ER 1121, [1972] 1 WLR 1540, CA. The test as to whether a statement is 'calculated to mislead' is whether it would mislead an ordinary person: *Concentrated Foods Ltd v Champ* [1944] KB 342, [1944] 1 All ER 272; *Heywood v Whitehead* (1897) 76 LT 781, DC.

7 Is subject to the Weights and Measures Act 1985 ss 33-37 (defences): see PARA 233 et seq post.

8 Ibid ss 29(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 29(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see

PARA 230 post; as to prosecution of offences see PARA 226 post; and as to restriction on institution of proceedings see PARA 227 post. As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante. See note 1 supra.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

109 Misrepresentation

TEXT AND NOTES--Weights and Measures Act 1985 s 29 repealed: SI 2008/1277.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (5) OFFENCES/110. Short weight etc.

110. Short weight etc.

Any person who, in selling or purporting to sell¹ any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer:

- 506 (1) a lesser quantity² than that purported to be sold³; or
- 507 (2) a lesser quantity than corresponds with the price charged⁴,

is guilty of an offence⁵ and liable to a penalty⁶.

For these purposes:

- 508 (a) the quantity of the goods in a regulated package⁷ is deemed to be the nominal quantity⁸ on the package⁹; and
- 509 (b) any statement, whether oral or in writing, as to the weight of any goods is to be taken, unless otherwise expressed, to be a statement as to the net weight¹⁰ of the goods¹¹.

1 Previously it was clear that, in respect of intoxicating liquor, only a licensee could 'sell', but now, for purposes unrelated to licensing, the sale of alcoholic drink is on the same basis as sales of other foods: see *Nottingham City Council v Wolverhampton and Dudley Breweries plc* [2003] EWHC 2847 (Admin), [2004] QB 1275, [2004] 1 All ER 1352; and FOOD vol 18(2) (Reissue) PARAS 360-361. As to sales without a justices' licence see LICENSING AND GAMBLING vol 67 (2008) PARA 162. As to the sale of goods generally see SALE OF GOODS AND SUPPLY OF SERVICES.

2 For the meaning of 'lesser quantity' see *Bennett v Markham* [1982] 3 All ER 641, [1982] 1 WLR 1230, DC (where it was held that beer does not have to consist wholly of liquid but can include the froth, provided that this is not excessive). See also *Marshall v Searles* [1964] Crim LR 667, DC; *Dean v Scottish and Newcastle Breweries Ltd* 1977 JC 90.

3 Weights and Measures Act 1985 s 28(1)(a). Nothing in s 28 applies in relation to any such goods or sales as are mentioned in s 24(2)(a) or (b) (see PARA 107 heads (1), (2) ante): s 28(3).

4 Ibid s 28(1)(b). As to unit pricing see PARA 119 post. It is not necessary that a purchaser should have been deceived for an offence to lie: see *Sopp v Co-operative Retail Services Ltd* (1969) 68 LGR 106, DC; *Elkington v Kesley* [1948] 2 KB 256, [1948] 1 All ER 786, DC.

- 5 le subject to the Weights and Measures Act 1985 ss 33-37 (defences): see PARA 233 et seq post.
- 6 Ibid ss 28(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 28(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.
- 7 le as defined in the Weights and Measures Act 1985 s 68(1): see PARA 209 note 3 post.
- 8 le as defined in ibid s 68(1): see PARA 209 note 4 post.
- 9 Ibid s 28(2)(a).
- 10 For the meaning of 'net weight' see PARA 120 post.
- 11 Weights and Measures Act 1985 s 28(2)(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (5) OFFENCES/111. Quantity less than that stated.

111. Quantity less than that stated.

If, in the case of any goods pre-packed¹ in or on a container² marked³ with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then⁴: (1) any person who has those goods in his possession for sale is guilty of an offence and liable to a penalty⁵; and (2) if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by, the buyer, any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, is guilty of an offence and liable to a penalty⁶.

If:

- 510 (a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods⁷; or
- 511 (b) in the case of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document containing such a statement⁸,

the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by, the buyer, then⁹ the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold is guilty of an offence and liable to a penalty¹⁰.

The provisions described above have effect notwithstanding that the quantity stated is expressed to be the quantity of the goods at a specified time falling before the time in question, or is expressed with some other qualification of whatever description, except where:

- 512 (i) that quantity is so expressed in pursuance of an express statutory requirement¹¹; or
- 513 (ii) the goods, although falling within these provisions¹², are not required¹³ to be pre-packed¹⁴ or, as the case may be, to be made up for sale or for delivery after sale in or on a container only if the container is marked as mentioned in head (a) above and are not goods on a sale of which, whether any sale or a sale of any particular description, the quantity sold is required¹⁵ to be made known to the buyer at or before a particular time¹⁶; or
- 514 (iii) the goods, although falling within head (b) above, are not required¹⁷ to have associated with them such a document as is there mentioned¹⁸.

In any case to which, by virtue of head (i), (ii) or (iii) above, the provisions described above¹⁹ do not apply, if it is found at any time that the quantity of the goods in question is less than that stated and it is shown that the deficiency is greater than can be reasonably justified on the ground justifying the qualification in question, then²⁰:

- 515 (A) in the case of goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods²¹, if it is further shown as mentioned in head (2) above, then, where the container in question was marked in Great Britain²², the person by whom, and any other person on whose behalf, the container was marked, or, where the container in question was marked outside Great Britain, the person by whom, and any other person on whose behalf, the goods were first sold in Great Britain, is guilty of an offence and liable to a penalty²³;
- 516 (B) in the case of goods such as are mentioned in head (a) or head (b) above, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold is guilty of an offence and liable to a penalty²⁴ if, but only if, he would, but for head (i), (ii) or (iii) above, have been guilty²⁵ of an offence²⁶.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 As to the meaning of 'mark' see PARA 28 note 10 ante.

4 Ie subject to the Weights and Measures Act 1985 ss 33-37 (defences): see PARA 233 et seq post.

5 Ibid ss 30(1)(a), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 30(1)(a), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; as to prosecution of offences see PARA 226 post; and as to restriction on institution of proceedings see PARA 227 post. Nothing in s 30 applies in relation to any such goods or sales as are mentioned in s 24(2)(a) or (b) (see PARA 107 heads (1), (2) ante): s 30(6). Section 28(2) (see PARA 110 ante) has effect for the purposes of s 30 as it has effect for the purposes of s 28: s 30(5).

6 Ibid ss 30(1)(b), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 30(1)(b), 84(6).

7 Ibid s 30(2)(a).

8 Ibid s 30(2)(b).

9 Ie subject to ibid ss 33-37 and s 21, Sch 4 para 10 (see PARA 170 post).

10 Ibid ss 30(2), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 30(2), 84(6). As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.

11 Weights and Measures Act 1985 s 30(3)(a). The express statutory requirement referred to in the text is a requirement of Pt IV (ss 21-46) (as amended) or any instrument made thereunder.

12 Ie within ibid s 30(1) (see the text to notes 1-6 supra) or s 30(2)(a) (see head (b) in the text).

13 Ie by or under ibid Pt IV (as amended).

14 Ie as mentioned in ibid s 30(1).

15 Ie by or under any provision of ibid Pt IV (as amended), other than s 26 (see PARA 117 post).

16 Ibid s 30(3)(b).

17 See note 13 supra.

18 Weights and Measures Act 1985 s 30(3)(c).

19 Ie ibid s 30(1), (2): see the text to notes 1-10 supra.

20 See note 4 supra.

21 Ie goods such as are mentioned in the Weights and Measures Act 1985 s 30(1): see the text to notes 1-6 supra.

22 For the meaning of 'Great Britain' see PARA 16 note 11 ante.

23 Weights and Measures Act 1985 ss 30(4)(a), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 30(4)(a), 84(6).

24 The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ibid ss 30(4)(b), 84(6).

25 Ie under ibid s 30(2) (see the text and notes 7-10 supra).

26 Ibid ss 30(4)(b), 84(6).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (5) OFFENCES/112. Incorrect statements in documents.

112. Incorrect statements in documents.

If, in the case of any goods required¹ to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document² while that statement was contained in the document, is guilty of an offence³ and liable to a penalty⁴.

1 le by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended). The prohibition relates in particular to the use of documents which are required to be associated with goods by virtue of s 21, Schs 4-7 (as amended) (see PARA 168 et seq post) or orders made under s 22(1) (see PARA 105 ante).

2 le for the purposes of ibid Pt IV (as amended).

3 le without prejudice to ibid s 30(2)-(4): see PARA 111 ante.

4 Ibid ss 31(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 31(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; as to prosecution of offences see PARA 226 post; and as to restriction on institution of proceedings see PARA 227 post. Nothing in s 31 applies in relation to any such goods or sales as are mentioned in s 24(2)(a) or (b) (see PARA 107 heads (1), (2) ante): s 31(3). Section 28(2) (see PARA 110 ante) has effect for the purposes of s 31 as it has effect for the purposes of s 28: s 31(2). As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (5) OFFENCES/113. Transactions in particular goods.

113. Transactions in particular goods.

Where any goods are required¹, when not pre-packed², to be sold only by quantity expressed in a particular manner or only in a particular quantity, any person is guilty of an offence³ who:

- 517 (1) whether on his own behalf or on behalf of another person, offers or exposes for sale⁴, sells or agrees to sell⁵; or
- 518 (2) causes or suffers any other person to offer or expose for sale, sell or agree to sell on his behalf⁶,

those goods otherwise than by quantity expressed in that manner or, as the case may be, otherwise than in that quantity, and is liable to a penalty⁷.

Any person is guilty of an offence (and liable to a penalty⁸) who:

- 519 (a) whether on his own behalf or on behalf of another person, has in his possession for sale, sells or agrees to sell⁹;
- 520 (b) except in the course of carriage of the goods for reward, has in his possession for delivery after sale¹⁰; or
- 521 (c) causes or suffers any other person to have in his possession for sale or for delivery after sale, or to sell or to agree to sell on behalf of the first-mentioned person¹¹,

any of the following goods, whether the sale is or is to be by retail or otherwise¹²:

- 522 (i) goods which are required to be pre-packed only in particular quantities but are not so pre-packed¹³;

- 523 (ii) goods which are required to be otherwise made up in or on a container¹⁴ for sale or for delivery after sale only in particular quantities but are not so made up¹⁵;
- 524 (iii) goods which are required to be made for sale only in particular quantities but are not so made¹⁶;
- 525 (iv) goods which are required to be pre-packed only if the container is marked with particular information but are pre-packed otherwise than in or on a container so marked¹⁷;
- 526 (v) goods which are required to be otherwise made up in or on a container for sale or for delivery after sale only if the container is marked with particular information but are so made up otherwise than in or on a container so marked¹⁸;
- 527 (vi) goods which are required to be pre-packed only in or on a container of a particular description but are not pre-packed in or on a container of that description¹⁹; or
- 528 (vii) goods which are required to be otherwise made up in or on a container for sale or for delivery after sale only in or on a container of a particular description but are not so made up in or on a container of that description²⁰.

In the case of any sale where the quantity of the goods sold expressed in a particular manner is required to be made known to the buyer²¹ at or before a particular time and that quantity is not so made known, the person by whom, and any other person on whose behalf, the goods were sold is guilty of an offence and liable to a penalty²².

Where any goods required to be sold by means of, or to be offered or exposed for sale in, a vending machine only if certain requirements are complied with are so sold, or offered or exposed, without those requirements being complied with, the seller or person causing the goods to be offered or exposed is guilty of an offence and liable to a penalty²³.

1 For these purposes, 'required' means required by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): s 25(8).

2 See subject to *ibid* s 44: see PARA 114 post.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 As to the meaning of 'offer or expose for sale' see PARA 109 note 2 ante.

5 Weights and Measures Act 1985 s 25(1)(a).

6 *Ibid* s 25(1)(b).

7 *Ibid* ss 25(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 25(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. The provisions of s 25(1)-(5) have effect subject to s 33 (see PARA 233 post), s 34 (see PARA 234 post), s 35 (see PARA 235 post), s 36 (see PARA 236 post) and s 37 (see PARA 237 post): s 25(6).

For the purposes of s 25, the quantity of the goods in a regulated package (as defined by s 68(1): see PARA 209 note 3 post) is deemed to be the nominal quantity (as so defined: see PARA 209 note 4 post) on the package: s 25(7).

As to the application of the Enterprise Act 2002 s 230 see also PARA 105 note 21 ante.

8 The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see the Weights and Measures Act 1985 ss 25(2), 84(6).

9 *Ibid* s 25(2)(a). As to the application of s 25(2), (3) to certain foods pre-packed or otherwise made up in a container for sale where the information marked on the container is given in a document accompanying the container see PARA 158 post.

10 *Ibid* s 25(2)(b). See note 9 *supra*.

- 11 Ibid s 25(2)(c). See note 9 supra.
- 12 Ibid ss 25(2), 84(6). See note 9 supra.
- 13 Ibid s 25(3)(a). See note 9 supra.
- 14 As to the meaning of 'container' see PARA 28 note 8 ante.
- 15 Weights and Measures Act 1985 s 25(3)(b). See note 9 supra.
- 16 Ibid s 25(3)(c). See note 9 supra.
- 17 Ibid s 25(3)(d). See note 9 supra.
- 18 Ibid s 25(3)(e). See note 9 supra.
- 19 Ibid s 25(3)(f). See note 9 supra.
- 20 Ibid s 25(3)(g). See note 9 supra.
- 21 As to when the quantity of goods sold is to be made known to the buyer see PARA 115 post.
- 22 Weights and Measures Act 1985 ss 25(4), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 25(4), 84(6).
- 23 Ibid ss 25(5), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 25(5), 84(6).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

113 Transactions in particular goods

NOTE 7--For the purposes of the 1985 Act s 25 the quantity of goods in a package, or of a loaf of bread to which the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659 apply is deemed to be the nominal quantity, within the meaning of SI 2006/659, of the package or the loaf of bread: 1985 Act s 25(7) (substituted by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(6) SELLING BY QUANTITY/114. Selling by quantity.

(6) SELLING BY QUANTITY

114. Selling by quantity.

Where any goods are required¹ to be sold only by quantity expressed in a particular manner:

- 529 (1) it is a sufficient compliance with that requirement in the case of any sale of, or agreement to sell, any such goods if the quantity of the goods expressed in the

- manner in question is made known to the buyer before the purchase price is agreed²; and
- 530 (2) no person is guilty of an offence³ by reason of the exposing or offering for sale⁴ of such goods at any time if both the quantity of the goods expressed in the manner in question and the price at which they are exposed or offered for sale are made known at that time to any prospective buyer⁵.

- 1 le by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended).
- 2 Ibid s 44(a).
- 3 le under ibid s 25(1): see PARA 113 ante.
- 4 As to the meaning of 'offer or expose for sale' see PARA 109 note 2 ante.
- 5 Weights and Measures Act 1985 s 44(b).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(7) MAKING QUANTITY KNOWN TO THE BUYER/115. Making quantity known to buyer.

(7) MAKING QUANTITY KNOWN TO THE BUYER

115. Making quantity known to buyer.

Without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner¹, that quantity is to be taken² to be made known to that person:

- 531 (1) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person³;
- 532 (2) if the goods are made up in or on a container⁴ marked⁵ with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person⁶; or
- 533 (3) upon such a statement in writing being delivered to that person⁷.

The Secretary of State⁸ may by order provide that the following provisions⁹ apply, in the case of such goods in such circumstances as are specified in the order, to any requirement so specified of, or of any instrument made under, the provisions regulating transactions in goods¹⁰ with respect to the making known to the buyer of the quantity by weight of such goods sold by retail¹¹.

In any such case, the requirement specified in the order is to be taken to be satisfied if the goods are bought at premises¹² at which weighing equipment of such description as may be prescribed¹³:

- 534 (a) is kept available by the occupier¹⁴ of those premises for use without charge by any prospective buyer of such goods for the purpose of weighing for himself any such goods offered or exposed for sale¹⁵ by retail on those premises¹⁶; and
- 535 (b) is so kept available in a position on those premises which is suitable and convenient for such use of the equipment¹⁷; and
- 536 (c) is reserved for use for that purpose at all times while those premises are open for retail transactions¹⁸,

and a notice of the availability of the equipment for such use is displayed in a position on the premises where it may be readily seen by any such prospective buyer¹⁹.

1 As to quantities which must be expressed in a particular manner see PARA 127 et seq post. The methods prescribed by the Weights and Measures Act 1985 s 45 are in practice the only practical methods for making the quantity known. The Weights and Measures (Weighing Equipment for Use by Customers) Regulations 1976, SI 1976/2061, which restricted the types of weighing machines which could be used for this purpose and their accuracy, have been revoked. Any weighing or measuring equipment which is lawful for use for trade and satisfies the provisions of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (see PARA 95 ante) as to accuracy, class and suitability for purpose may be used.

2 Ie for the purposes of the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended).

3 Ibid s 45(1)(a). As to when goods are deemed to be weighed in the presence of a person see PARA 116 post.

4 As to the meaning of 'container' see PARA 28 note 8 ante.

5 As to the meaning of 'mark' see PARA 28 note 10 ante.

6 Weights and Measures Act 1985 s 45(1)(b).

7 Ibid s 45(1)(c).

8 As to the Secretary of State see PARA 16 ante.

9 Ie ibid s 45(3): see the text and notes 12-19 infra.

10 Ie ibid Pt IV (as amended).

11 Ibid s 45(2). At the date at which this volume states the law, no such order had been made and none has effect as if so made. As to the making of orders see PARA 3 ante.

12 For these purposes, 'premises' does not have the meaning given by ibid s 94(1) (see PARA 27 note 5 ante): s 94(1).

13 'Prescribed' means prescribed by the Secretary of State by regulations or order: ibid s 94(1).

14 For the meaning of 'occupier' see PARA 27 note 16 ante.

15 As to the meaning of 'offer or expose for sale' see PARA 109 note 2 ante.

16 Weights and Measures Act 1985 s 45(3)(a).

17 Ibid s 45(3)(b).

18 Ibid s 45(3)(c).

19 Ibid s 45(3).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(7) MAKING QUANTITY KNOWN TO THE BUYER/116. Weighing in presence of a person.

116. Weighing in presence of a person.

A person is not to be taken¹ to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any equipment used for the purpose to be so placed, and so conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that other person a clear and unobstructed view of the equipment, if any, and of the operation, and of any indication of quantity² given by any such equipment as the result of that operation³.

1 le for the purposes of the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended).

2 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

3 Weights and Measures Act 1985 s 46.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(8) QUANTITY TO BE STATED IN WRITING/117. Quantity to be stated in writing in certain cases.

(8) QUANTITY TO BE STATED IN WRITING

117. Quantity to be stated in writing in certain cases.

The following provisions have effect¹ on any sale of goods:

- 537 (1) which is required² to be a sale by quantity expressed in a particular manner³;
- 538 (2) in the case of which the quantity of the goods sold expressed in a particular manner is so required to be made known to the buyer⁴ at or before a particular time⁵; or

539 (3) which, being a sale by retail not falling within head (1) or head (2) above, is, or purports to be, a sale by quantity expressed in a particular manner other than by number⁶.

Unless the quantity of the goods sold expressed in the manner in question is made known to the buyer at the premises⁷ of the seller and the goods are delivered to the buyer at those premises on the same occasion as, and at or after the time when, that quantity is so made known to him, a statement in writing of that quantity⁸ must be delivered⁹ to the consignee at or before delivery of the goods to him¹⁰. If this provision is contravened¹¹, the person by whom, and any other person on whose behalf, the goods were sold is guilty¹² of an offence and liable to a penalty¹³.

If, at the time when the goods are delivered, the consignee is absent, it is sufficient compliance with these provisions if the statement is left at some suitable place at the premises at which the goods are delivered¹⁴.

These provisions do not apply to any sale otherwise than by retail where, by agreement with the buyer, the quantity of the goods sold is to be determined after their delivery to the consignee¹⁵.

Where any liquid goods are sold by capacity measurement¹⁶ and the quantity sold is measured at the time of delivery and elsewhere than at the premises of the seller, these provisions do not apply but, unless the quantity by capacity measurement of the goods sold is measured in the presence of the buyer¹⁷, the person by whom the goods are delivered must immediately after the delivery hand to the buyer, or if the buyer is not present leave at some suitable place at the premises at which the goods are delivered, a statement in writing of the quantity by capacity measurement delivered, and, if without reasonable cause he fails so to do, he is guilty of an offence and liable to a penalty¹⁸.

1 le subject to the Weights and Measures Act 1985 s 27 (as amended): see PARA 118 post.

2 le by or under *ibid* Pt IV (ss 21-46) (as amended).

3 *Ibid* s 26(1)(a). As to selling by quantity see PARA 114 ante.

4 As to when the quantity of goods sold is deemed to be made known to the buyer see PARA 115 ante.

5 Weights and Measures Act 1985 s 26(1)(b).

6 *Ibid* s 26(1)(c).

7 As to the meaning of 'premises' see PARA 27 note 5 ante.

8 The reference to a statement of the quantity also includes a copy thereof given by an inspector in exchange when he seizes the original document: see the Weights and Measures Act 1985 s 39(2); and PARA 30 ante.

9 le subject to *ibid* s 26(4)-(6): see the text and notes 14-18 *infra*.

10 *Ibid* s 26(2).

11 As to the meaning of 'contravene' see PARA 46 note 12 ante.

12 le subject to the Weights and Measures Act 1985 ss 33-37 (defences): see PARA 233 et seq post.

13 *Ibid* ss 26(3), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 26(3), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. Where the statement is incorrect, an offence may be committed under s 30: see PARA 111 ante.

14 *Ibid* s 26(4).

15 Ibid s 26(5).

16 'Capacity measurement' means measurement in terms of a unit of measurement included in ibid s 1(2), Sch 1 Pt IV (as amended) (see PARA 43 ante): s 94(1).

17 As to when goods are deemed to be measured in the presence of another person see PARA 116 ante.

18 Weights and Measures Act 1985 ss 26(6), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 26(6), 84(6).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(8) QUANTITY TO BE STATED IN WRITING/118. Exemptions.

118. Exemptions.

The Secretary of State¹ may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements of the provisions² requiring quantities to be stated in writing³.

Until otherwise provided by such an order, nothing in those provisions applies to:

540 (1) a sale by retail from a vehicle;

11

13. (a) of any of the following in a quantity not exceeding 110 kilograms⁴, that is to say, any solid fuel⁵ and wood fuel⁶; or

14. (b) any of the following in a quantity not exceeding 25 litres⁷, that is to say, liquid fuel, lubricating oil⁸, and any mixture of such fuel and oil⁹;

12

541 (2) a sale by retail of bread¹⁰;

542 (3) goods made up for sale, whether by way of pre-packing¹¹ or otherwise, in or on a container¹² marked¹³ with a statement in writing with respect to the quantity of the goods expressed in the manner in question, being a container which is delivered with the goods¹⁴;

543 (4) a sale of goods in the case of which a document stating the quantity of the goods expressed in the manner in question is required¹⁵ to be delivered to the buyer or consignee of the goods¹⁶;

544 (5) any other specified goods or sales¹⁷;

545 (6) a sale of intoxicating liquor¹⁸ for consumption at the premises¹⁹ of the seller²⁰;

546 (7) a sale by means of a vending machine²¹; or

547 (8) goods delivered at premises of the buyer by means of an installation providing a connection of a permanent nature between those premises and premises of the seller²².

1 As to the Secretary of State see PARA 16 ante.

- 2 le the Weights and Measures Act 1985 s 26: see PARA 117 ante.
- 3 Ibid s 27(1). At the date at which this volume states the law, no such order had been made and none has effect as if so made.
- 4 For the meaning of 'kilogram' see PARA 44 ante.
- 5 le within the meaning of the Weights and Measures Act 1985 s 21, Sch 5 (as amended): see PARA 171 post.
- 6 Ibid s 27(2)(a)(i) (s 27(2)(a) amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (4)). For special provisions relating to wood fuel see PARA 203 post.
- 7 For the meaning of 'litre' see PARA 43 ante.
- 8 For special provisions relating to liquid fuel, lubricating oil and mixtures thereof see PARA 193 post.
- 9 Weights and Measures Act 1985 s 27(2)(a)(ii) (as amended: see note 6 supra).
- 10 Ibid s 27(2)(b). Section 27(2)(b) refers to a sale within the meaning of the Weights and Measures Act 1963 (Miscellaneous Foods) Order 1984, SI 1984/1316 (revoked): see now the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2; and PARA 134 post.
- 11 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 12 As to the meaning of 'container' see PARA 28 note 8 ante.
- 13 As to the meaning of 'mark' see PARA 28 note 10 ante.
- 14 Weights and Measures Act 1985 s 27(2)(c).
- 15 le by or under any other provision of ibid Pt IV (ss 21-46) (as amended).
- 16 Ibid s 27(2)(d).
- 17 Ibid s 27(2)(e). The text refers to such goods or sales as are mentioned in s 24(2)(a)-(d): see PARA 107 heads (1)-(4) ante.
- 18 For the meaning of 'intoxicating liquor' see PARA 46 note 8 ante.
- 19 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 20 Weights and Measures Act 1985 s 27(2)(f).
- 21 Ibid s 27(2)(g).
- 22 Ibid s 27(2)(h).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(9) UNIT PRICING; PRESCRIBED QUANTITIES/119. Unit pricing and prescribed quantities.

(9) UNIT PRICING; PRESCRIBED QUANTITIES

119. Unit pricing and prescribed quantities.

Where a trader¹ indicates that a certain product² is or may be for sale to a consumer³ he must indicate the unit price⁴ of the product⁵.

Such indication must be in sterling⁶ and, if a trader indicates his willingness to accept foreign currency in payment for a product there are additional specific requirements⁷. Such indication⁸ must be: (1) unambiguous, easily identifiable and clearly legible⁹; (2) given in proximity to the product¹⁰ or, in the case of distance contracts and advertisements, a visual or written description of the product¹¹; and (3) so placed as to be available to consumers without the need for them to seek assistance from the trader or someone on his behalf in order to ascertain it¹². The indication of any charges for postage, package or delivery of a product must be unambiguous, easily identifiable and clearly legible¹³. Where, in addition to a unit price, a price per quantity is indicated in relation to a supplementary indication of quantity¹⁴ the unit price must predominate and the price per supplementary indication of quantity must be expressed in characters no larger than the unit price¹⁵.

The requirement to indicate the unit price¹⁶ does not apply in relation to the following:

- 548 (a) any product which is offered by traders to consumers by means of an advertisement which is purely aural, broadcast on television, shown at a cinema or inside a small shop¹⁷;
- 549 (b) any product the price of which has been reduced from the usual price at which it is sold, on account of its damaged condition, or the danger of its deterioration¹⁸;
- 550 (c) any product which comprises an assortment of different items sold in a single package¹⁹;
- 551 (d) any product the unit price of which is 0.0 pence²⁰.

In addition the above requirement²¹ does not apply to:

- 552 (i) products which are supplied in the course of the provision of a service²²;
- 553 (ii) sales by auction or sales of works of art or antiques²³.

1 'Trader' means any person who sells or offers or exposes for sale products which fall within his commercial or professional activity: Price Marking Order 2004, SI 2004/102, art 1(2).

2 'Products sold from bulk' means products which are not pre-packaged and are weighed or measured at the request of the consumer: art 1(2). 'Products sold from bulk or required by or under the Weights and Measures Act Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante) or Pt V (ss 47-68) (as amended) (see PARA 205 et seq post) to be marked with an indication of quantity or made up in a quantity prescribed by the Weights and Measures Act 1985: Price Marking Order 2004, SI 2004/102, art 5(2). 'Products sold from bulk' means products which are not pre-packaged and are weighed or measured at the request of the consumer: art 1(2).

3 'Consumer' means any individual who buys a product for purposes that do not fall within the sphere of his commercial or professional activity: ibid art 1(2).

4 'Unit price' means the final price, including VAT and all other taxes, for one kilogram, one litre, one metre, one square metre or one cubic metre of a product, except: (1) in respect of the products specified in ibid Sch 1, where unit price means the final price including VAT and all other taxes for the corresponding units of quantity set out in that Schedule; and (2) in respect of products sold by number, where unit price means the final price including VAT and all other taxes for an individual item of the product: art 1(2). As to VAT see VALUE ADDED TAX. The products specified in Sch 1 together with the corresponding unit of quantity are: ballast, where sold by the kilogram (1,000 kg); biscuits and shortbread (100 (except where sold by number)); bread (100 (except where sold by number)); breakfast cereal products (100 (except where required to be quantity marked by number)); chocolate confectionery and sugar confectionery (100); coal, where sold by the kilogram (50 kg); coffee (100); cooked or ready-to-eat fish, seafoods and crustacea flavouring essences (100); cooked or ready-to-eat meat including game and poultry (100); cosmetic products other than make-up products (100); cream and non-dairy

alternatives to cream (100); dips and spreads excluding edible fats (100); dry sauce mixes (100); flavouring essences (10); fresh processed salad (100); food colourings (10); fruit juices and soft drinks (100); handrolling and pipe tobacco (100); herbs (10); ice cream and frozen desserts (100); lubricating oils other than oils for internal combustion engines (100); make-up products (10 (except where sold by number); pickles (100); pies, pasties, sausage rolls, puddings and flans indicating net quantity (100 (except where sold by numbers)); potato crisps and similar products commonly known as snack foods (100); preserves including honey (100); ready-to-eat desserts (100); sauces and edible oils (100); seeds other than pea, bean, grass and wild bird seeds (10); soups (100); spices (10); tea and other beverages prepared with liquid (100); waters, including spa waters and aerated waters (100); wines, sparkling wine, liqueur wine and fortified wine (75 cl): see Sch 1. For the purposes of Sch 1, the figure denoting the relevant units of quantity for the corresponding product refers, as indicated by or under the Weights and Measures Act 1985, and unless specified otherwise to: (a) grams where the product is sold by weight; (b) millilitres where the product is sold by volume; and (c) either grams or millilitres, as indicated by the manufacturer of the product, where the product is permitted to be sold by either weight or volume: see the Price Marking Order 2004, SI 2004/102, art 14. For the meanings of 'cubic metre', 'gram', 'kilogram', 'litre', 'metre' and 'millilitre' see PARAS 42-44 ante.

In the case of a pre-packaged solid food product presented in a liquid medium, the unit price must refer to the net drained weight of the product; and where a unit price is also given with reference to the net weight of the product, it must be clearly indicated which unit price relates to net drained weight and which to net weight: art 8. 'Liquid medium' has the meaning given for the purposes of EC Council Directive 2000/13 (OJ L109, 6.5.2000, p 29) on the labelling, presentation and advertising of foodstuffs (as amended) (see PARA 5 ante; and FOOD vol 18(2) (Reissue) PARAS 373, 383, 412, 437); and 'net drained weight' means the weight of a solid food product when it is presented in a liquid medium: Price Marking Order 2004, SI 2004/102, art 1(2);

5 Ibid art 5(1). The Price Marking Order 2004, SI 2004/102, implements EC Council Directive 98/6 (OJ L180, 18.3.98, p 27) on consumer protection in the indication of prices of products offered to customers. The Price Marking Order 1999, SI 1999/3042 has been revoked: see the Price Marking Order 2004, SI 2004/102, art 2. Article 5(1) is subject to art 5(2), (3), (4) (see note 2 supra; and the text to notes 16-20 infra) and to art 9 (special provisions relating to general reductions): see art 5(1).

The requirement in art 5(1) applies in relation to an advertisement for a product only where the selling price of the product is indicated in the advertisement: art 5(4). 'Advertisement' means any form of advertisement which is made in order to promote the sale of a product but does not include any advertisement by means of which the trader intends to encourage a consumer to enter into a distance contract, a catalogue, a price list, a container or a label: art 1(2). 'Distance contract' means any contract concerning products concluded between a trader and a consumer, by any means, without the simultaneous physical presence of the trader and the consumer; and 'selling price' means the final price for a unit of a product, or a given quantity of a product, including VAT and all other taxes: art 1(2).

Where a trader indicates that any product is or may be for sale to a consumer, he must indicate the selling price of that product in accordance with the provisions of the Price Marking Order 2004, SI 2004/102: art 4(1). Such requirement does not apply in respect of products sold from bulk or an advertisement for a product: art 4(2). Article 4(1) is subject to art 9 (special provisions relating to general reductions) and art 10 (special provisions relating to special metals). Where a trader proposes to sell products to which the Price Marking Order 2004, SI 2004/102, applies at less than the selling price or the unit price previously applicable and indicated in accordance with art 7(1) (see the text to notes 9-12 infra), he may comply with the obligations specified in art 4(1) (to indicate the selling price) and 5(1) (to indicate the unit price) by indicating by a general notice or any other visible means that the products are or may be for sale at a reduction, provided that the details of the reduction are prominently displayed, unambiguous, easily identifiable and clearly legible: art 9.

6 Ibid art 6(1). Selling price and unit price must be indicated.

7 The requirements are that the trader must: (1) give an indication of the selling price and any unit price required for the product in the foreign currency in question together with any commission to be charged; or (2) clearly identify the conversion rate on the basis of which the foreign currency price will be calculated together with any commission to be charged, and indicate that such selling price, unit price or conversion rate, as the case may be, does not apply to transactions via a payment card to be applied to accounts denominated in currencies other than sterling, the conversion rate for which will be that applied by the relevant payment scheme which processes the transaction: ibid art 6(2).

8 I.e. an indication of selling price, unit price, commission, conversion rate or a change in the rate or coverage of value added tax given in accordance with ibid art 11 (changes in value added tax etc): see art 7(1).

9 Ibid art 7(1)(a).

10 Ibid art 7(1)(b)(i). This does not apply to an indication given in relation to any item of jewellery, item of precious metal, or watch displayed in a window of the premises where it is or may be for sale and the selling price of which is in excess of £3,000: art 7(2). 'Precious metal' means gold, silver or platinum, or any other metal to which by an order under the Hallmarking Act 1973 s 17 (see TRADE MARKS AND TRADE NAMES vol 48 (2007

Reissue) PARA 464 et seq) the provisions of the Hallmarking Act 1973 are applied: Price Marking Order 2004, SI 2004/102, art 1(2).

11 Ibid art 7(1)(b)(ii).

12 Ibid art 7(1)(c).

13 Ibid art 7(3).

14 'Supplementary indication of quantity' refers to an indication of quantity expressed in a unit of measurement other than a metric unit as authorised by the Weights and Measures Act 1985 s 8(5A) (as added and amended) (see PARA 46 ante): Price Marking Order 2004, SI 2004/102, art 1(2).

15 Ibid art 7(4).

16 Ie the requirement under ibid art 5(1). That requirement does not apply in relation to a product falling within Sch 2 nor to any product the unit price of which is identical to its selling price: see art 5(3).

17 See ibid art 5(3), Sch 2 para 1. 'Small shop' means any shop which has a relevant floor area not exceeding 280 square metres; 'shop' includes a store, kiosk and a franchise or concession within a shop; and 'relevant floor area' in relation to a shop means the internal floor area of the shop excluding any area not used for the retail sale of products or for the display of such products for retail sale: art 1(2).

18 See ibid Sch 2 para 2.

19 See ibid Sch 2 para 3.

20 See ibid Sch 2 para 4. The unit price may be such an amount as a result of art 12 (decimal places and rounding of unit prices).

21 Ie the requirements in the Price Marking Order 2004, SI 2004/102.

22 Ibid art 3(1)(a). The Electronic Commerce (EC Directive) Regulations 2002, SI 2002/2013, apply (notwithstanding reg 3(2) (as substituted)) (see COPYRIGHT, DESIGN RIGHT AND RELATED RIGHTS) to the Price Marking Order 2004, SI 2004/102: see art 3(2).

23 Ibid art 3(1)(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

119 Unit pricing and prescribed quantities

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/ (10) NET AND GROSS WEIGHT/120. Net and gross weight.

(10) NET AND GROSS WEIGHT

120. Net and gross weight.

Where any person who, in selling or purporting to sell any goods by weight, delivers or causes to be delivered to the buyer a lesser quantity than that purported to be sold, any statement, whether oral or in writing, as to the weight of any goods is to be taken, unless otherwise expressed, to be a statement as to the net weight of the goods¹. 'Net weight' means the weight of the goods free from any inclusion of weight for wrapping, containers or other articles of any kind².

'Gross weight', in relation to any goods, means the aggregate weight of the goods and any container³ in or on which they are made up⁴.

1 See the Weights and Measures Act 1985 s 28(1), (2)(b); and PARA 110 ante.

2 *Tansley v J Sainsbury & Co Ltd* (1941) 105 JP 337, DC. Meat is not sold by net weight when the weight of the skewers is included: *Tansley v J Sainsbury & Co Ltd* supra.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 Weights and Measures Act 1985 s 94(1).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(11) MARKING OF GOODS/121. Marking with quantity by measurement.

(11) MARKING OF GOODS

121. Marking with quantity by measurement.

The marking of any container¹ with information as to quantity by measurement must comprise the numerical value of the unit of measurement expressed in words or figures and a reference to that unit expressed either in words or by means of the relevant symbol or abbreviation which may lawfully be used for trade² in relation to that unit³.

Where the numerical value of the unit of measurement is expressed in words, the reference to that unit must be expressed in words and not by means of a symbol or abbreviation⁴.

Any marking with information as to quantity by gross weight⁵ must include the word 'gross' or the words 'including container' or other words which indicate that the marked weight includes the weight of the container⁶. No abbreviation of the word 'net' or 'gross' may be used in the marking⁷.

A metric quantity used in the marking must not be expressed as a vulgar fraction⁸.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 ie under the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, Pt III (regs 10, 11) (as amended): see PARA 56 ante.

3 Ibid reg 3(1). The provisions of Pt I (regs 2-9) (as amended) apply in respect of: (1) the manner of marking of any container required by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante), s 48(1) (see PARA 209 post), s 48(1A) (as added) or s 68(1A) (as added) to be marked with information as to quantity; and (2) the units of measurement to be used in marking any container required by or under Pt IV (as amended) to be marked with information as to quantity by measurement: Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 2(1).

4 Ibid reg 3(2).

5 For the meaning of 'gross weight' see PARA 120 ante.

6 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 3(3).

7 Ibid reg 3(4).

8 Ibid reg 3(5).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

121 Marking with quantity by measurement

NOTE 3--References to 1985 Act ss 48(1), (1A), 68(1A) (repealed) omitted: SI 1987/1538 reg 2(1) (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(11) MARKING OF GOODS/122. Legibility and position of marking.

122. Legibility and position of marking.

Any marking of a container¹ with information as to quantity:

554 (1) must be easy to understand, clearly legible and indelible²;

555 (2) must be easily visible to an intending purchaser under normal conditions of purchase³;

556 (3) must not in any way be hidden, obscured or interrupted by any other written or pictorial matter⁴; and

557 (4) if it is not on the actual container or on a label securely attached to the container, must be so placed that it cannot be removed without opening the container⁵.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 4(1)(a). As to the application of reg 4 see PARA 121 note 3 ante.

3 Ibid reg 4(1)(b).

4 Ibid reg 4(1)(c).

5 Ibid reg 4(1)(d).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(11) MARKING OF GOODS/123. Size of marking.

123. Size of marking.

Where in any marking of any container¹ the quantity by number or the numerical value of a unit of measurement is expressed in figures, all the relevant figures must be at least the prescribed height².

These provisions do not apply to any catchweight product³.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 5(1). As to the application of reg 5 (as amended) see PARA 121 note 3 ante. For the prescribed heights for figures in quantity marking of containers see reg 5(1), Sch 1.

3 Ibid reg 2(2) (amended by SI 1994/1852). For these purposes, 'catchweight product' means any product which is not pre-packed according to a predetermined fixed weight pattern, but is pre-packed in varying quantities: Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 2(3). For the meaning of 'pre-packed' see PARA 28 note 7 ante.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(11) MARKING OF GOODS/124. Imperial and metric units of measurement.

124. Imperial and metric units of measurement.

The marking of any container¹ with information as to quantity by measurement must be in metric units of measurement².

The marking of any returnable container used for milk with information as to quantity by measurement may, in addition to the marking in metric units, be marked by reference to the pint³.

Any container marked in metric units of measurement may be marked with a supplementary indication⁴.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 6(1) (reg 6 substituted by SI 1994/1852). As to the application of the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 6 (as substituted) see PARA 121 note 3 ante.

3 Ibid reg 6(2) (as substituted: see note 2 supra).

4 Ibid reg 6(4) (as substituted: see note 2 supra). The Weights and Measures Act 1985 s 8(5A) (as added) (see PARA 46 ante) makes provision for the use for trade of a supplementary indication: Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 6(4) (as so substituted).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(11) MARKING OF GOODS/125. Units of measurement to be used in marking.

125. Units of measurement to be used in marking.

The units of measurement to be used in marking any container¹ with information as to quantity by measurement are²:

- 558 (1) in relation to length, the metre³, centimetre⁴ and millimetre⁵;
- 559 (2) in relation to area, the square metre⁶, square decimetre⁷ and the square centimetre⁸;
- 560 (3) in relation to volume, the cubic metre⁹, cubic centimetre¹⁰, litre¹¹, centilitre¹² and millilitre¹³;
- 561 (4) in relation to capacity, the litre, centilitre and millilitre; and
- 562 (5) in relation to mass or weight, the kilogram¹⁴ and gram¹⁵.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Ie subject to the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 6(2)-(4) (as substituted): see PARA 124 ante.

3 For the meaning of 'metre' see PARA 40 ante.

4 For the meaning of 'centimetre' see PARA 40 ante.

5 For the meaning of 'millimetre' see PARA 40 ante.

- 6 For the meaning of 'square metre' see PARA 41 ante.
- 7 For the meaning of 'square decimetre' see PARA 41 ante.
- 8 For the meaning of 'square centimetre' see PARA 41 ante.
- 9 For the meaning of 'cubic metre' see PARA 42 ante.
- 10 For the meaning of 'cubic centimetre' see PARA 42 ante.
- 11 For the meaning of 'litre' in relation to volume see PARA 42 ante; and for the meaning of 'litre' in relation to capacity see PARA 43 ante.
- 12 For the meaning of 'centilitre' in relation to volume see PARA 42 ante; and for the meaning of 'centilitre' in relation to capacity see PARA 43 ante.
- 13 For the meaning of 'millilitre' in relation to volume see PARA 42 ante; and for the meaning of 'millilitre' in relation to capacity see PARA 43 ante.
- 14 For the meaning of 'kilogram' see PARA 44 ante.
- 15 Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 8, Sch 2 (reg 8 substituted, and Sch 2 amended, by SI 1994/1852). For the meaning of 'gram' see PARA 44 ante. As to the application of the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987, SI 1987/1538, reg 8 (as substituted) see PARA 121 note 3 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/A. PRICE MARKING/126. Price marking.

(12) TRANSACTIONS IN PARTICULAR GOODS

(i) Food

A. PRICE MARKING

126. Price marking.

Prices of food must be indicated at premises where food is offered for consumption on those premises¹.

¹ See the Price Marking (Food and Drink Services) Order 2003, SI 2003/2253, art 4; para 14 ante; and SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 689 et seq. Where the food is sold by reference to quantity or weight there must be an indication of the price for each quantity or weight: see art 4(1)(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/127. Permitted weights for containers.

B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY

127. Permitted weights for containers.

The following permitted weights are prescribed for containers¹ in respect of cheese², fish³, fresh fruit and vegetables (other than potatoes, soft fruits and mushrooms)⁴, meat, poultry and sausage meat⁵:

- 563 (1) where the gross weight⁶ does not exceed 500 grams⁷, the permitted weight of the container is five grams; and
- 564 (2) where the gross weight exceeds 500 grams, the permitted weight of the container is a weight at the rate of ten grams per kilogram⁸ of the gross weight⁹.

The following permitted weights are prescribed for containers in respect of soft fruits and mushrooms¹⁰:

- 565 (a) where the gross weight does not exceed 250 grams, the permitted weight of the container is a weight at the rate of 120 grams per kilogram of the gross weight;
- 566 (b) where the gross weight exceeds 250 grams but does not exceed one kilogram, the permitted weight of the container is a weight at the rate of 100 grams per kilogram of the gross weight;
- 567 (c) where the gross weight exceeds one kilogram but does not exceed three kilograms, the permitted weight of the container is a weight at the rate of 90 grams per kilogram of the gross weight; and
- 568 (d) where the gross weight exceeds three kilograms, the permitted weight of the container is a weight at the rate of 60 grams per kilogram of the gross weight¹¹.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 As to cheese see PARA 128 post.

3 As to fish see PARA 129 post.

4 As to fresh fruits and vegetables (other than potatoes, soft fruits and mushrooms) see PARA 130 post.

5 As to meat, poultry and sausage meat see PARA 131 post.

6 For the meaning of 'gross weight' see PARA 120 ante.

7 For the meaning of 'gram' see PARA 44 ante.

8 For the meaning of 'kilogram' see PARA 44 ante.

9 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4, Sch 2, Table A. The Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended) in part implements EC Council Directive 89/108 (as amended) and EC Council Directive 2000/13 (as amended) (see PARA 5 ante).

10 As to soft fruits and mushrooms see PARA 130 post.

11 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5, Sch 2, Table B.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/128. Cheese.

128. Cheese.

Cheese¹, excluding cheese pies, puddings and flans², and any article which, though it also contains other food, consists substantially of cheese, which is not pre-packed³ and in a quantity of 25 grams⁴ or more must, if sold by retail, be sold only by net weight⁵, or, if it is sold in a container⁶ which does not exceed the permitted weight⁷, either by net weight or by gross weight⁸. Cheese of any description other than:

- 569 (1) processed cheese⁹;
- 570 (2) cheese spread¹⁰; and
- 571 (3) natural cheese of any of the following descriptions, that is to say, Caerphilly, Cheddar, Cheshire, Derby, Double Gloucester, Dunlop, Edam, Gouda, Lancashire, Leicestershire and Wensleydale¹¹,

must be pre-packed only if the container is marked with an indication of quantity¹² by net weight¹³; but the following are exempted from those requirements:

- 572 (a) whole Stilton cheese¹⁴;
- 573 (b) any cheese in a quantity of less than 25 grams and more than ten kilograms¹⁵; and
- 574 (c) any cheese sold by gross weight in a container which does not exceed the permitted weight¹⁶, if the quantity is made known to the buyer before he pays for or takes possession of the goods¹⁷.

The cheeses in heads (1) to (3) above must, if in a quantity of 25 grams or more, be pre-packed only if the container is marked with an indication of quantity by net weight¹⁸.

Cheese for sale in a pre-packaged form must comply with the general requirement¹⁹ that the unit price must be indicated for all products sold from bulk and pre-packaged products that are required by or under the Weights and Measures Act 1985²⁰ to be marked with quantity or to be made up to a prescribed quantity²¹.

1 'Cheese' means cheese, whether or not containing flavouring or colouring matter, and whether or not coated or mixed with other food for the purpose of giving the cheese a distinctive appearance or flavour, and includes processed cheese and cheese spread: Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 2.

2 It is provided that in the case of more than one item of food pre-packed in a container not marked with an indication of quantity by net weight the number of items in the container is marked on the container or is clearly visible and capable of being easily counted through the container.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 For the meaning of 'gram' see PARA 44 ante.

5 For the meaning of 'net weight' see PARA 120 ante.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 It is the permitted weight specified in the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(2), Sch 2, Table A: see PARA 127 heads (1), (2) ante.

8 Ibid art 4(1)(a),(d), (2), (7)(a), (9) (amended by SI 1985/1980). For the meaning of 'gross weight' see PARA 120 ante.

9 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(5)(a).

10 Ibid art 5(5)(b).

11 Ibid art 5(5)(c).

12 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

13 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(5), (6).

14 Ibid art 4(6) proviso (a).

15 Ibid art 4(6) proviso (b).

16 See note 7 supra.

17 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(6) proviso (c).

18 Ibid art 4(5), (9).

19 As to the exceptions see PARA 119 ante.

20 It is by or under the Weights and Measures Act Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante) or Pt V (ss 47-68) (as amended) (see PARA 205 et seq post).

21 See the Price Marking Order 2004, SI 2004/102, art 5; and PARA 119 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/129. Fish.

129. Fish.

Fish, other than:

- 575 (1) fish paste:
- 576 (2) shellfish in shell, jellied fish, pickled fish or fried fish;
- 577 (3) fish pies, puddings and flans¹,

whether fresh, chilled, frozen, salted, cooked or processed, and any article which, though it also contains other food, consists substantially of fish, which is not pre-packed² and in a quantity of five grams³ or more must, if sold by retail from a market, shop, stall or vehicle, be sold only: (a) by net weight⁴; or (b) if it is sold in a container⁵ which does not exceed the permitted weight⁶, either by net weight or by gross weight⁷.

Fish, including shellfish in shell, jellied fish, pickled fish or fried fish but excluding fish paste, fish pies, puddings and flans⁸, in a quantity of five grams or more must be pre-packed only if the container is marked with an indication of quantity⁹ by net weight¹⁰.

1 It is provided that in the case of more than one item of food pre-packed in a container not marked with an indication of quantity by net weight the number of items in the container is marked on the container or is clearly visible and capable of being easily counted through the container.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'net weight' see PARA 120 ante.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 It is the permitted weight specified in the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(2), Sch 2, Table A: see PARA 127 heads (1), (2) ante.

7 Ibid art 4(1)(b), (d), (2), (7)(a), (b) (amended by SI 1985/1980); Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(8)(b), (c). For the meaning of 'gross weight' see PARA 120 ante.

8 See note 1 supra.

9 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

10 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(4), (7)(a), (b) (amended by SI 1985/1980).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/130. Fresh fruit and vegetables other than potatoes.

130. Fresh fruit and vegetables other than potatoes.

The following provisions apply to food consisting of fruits or vegetables of any description (other than potatoes¹):

- 578 (1) in the state in which they were harvested²;
- 579 (2) in the state in which they were harvested apart from cleaning or trimming³;
- 580 (3) in the case of beetroots, in the state in which they were harvested apart from having been cooked⁴; or
- 581 (4) in the case of peas, in the state in which they were harvested apart from having been shelled⁵.

Fruits and vegetables of any description, other than soft fruits⁶ and mushrooms, must be pre-packed⁷ only if the container⁸ is marked with an indication of quantity⁹ by net weight¹⁰ or, in the case of countable produce¹¹, either by net weight or by number¹²; but a pre-packed collection of not more than eight articles of countable produce is exempted from that requirement if the container is such that all the articles can be seen by a prospective buyer¹³.

Fruits and vegetables of any description, other than soft fruits and mushrooms, which are not pre-packed, must, if sold by retail, be sold only:

- 582 (a) by net weight¹⁴;
- 583 (b) in the case of countable produce, either by net weight or number¹⁵; or
- 584 (c) if the food is sold in a container which does not exceed the appropriate permitted weight¹⁶, either by net weight or by gross weight¹⁷.

Any fruits or vegetables consisting of soft fruits or mushrooms must, if sold by retail, be sold only by net weight or, if the food is sold in a container which does not exceed the appropriate permitted weight¹⁸, either by net weight or by gross weight; and the quantity must be made known to the buyer before he pays for or takes possession of the food¹⁹.

Food pre-packed in the same container with other goods (except potatoes) to which none of the above requirements²⁰ applies, food pre-packed in the same container with goods of two or more other descriptions to which some of the above requirements would otherwise apply or which includes potatoes and any food in a quantity of more than five kilograms²¹ are exempted from the above requirements²² as are any goods in a quantity of less than five grams²³. Similarly, certain vegetables²⁴, if sold in a bunch, are exempted²⁵ from the above provisions²⁶.

Where fresh fruits or vegetables, other than potatoes, have been divided into pieces or have had part thereof removed or both, any food consisting of, or including any part of, any of those fruits or vegetables which have not been subjected to further process must:

- 585 (i) if not pre-packed and if sold by retail, be sold only by net weight or, in the case of countable produce, either by net weight or by number²⁷; or
- 586 (ii) be pre-packed only if the container is marked with an indication of quantity by net weight or, in the case of countable produce, either by net weight or by number²⁸.

Where at any premises²⁹, other than a vehicle or ship³⁰, any fresh fruits or vegetables, other than potatoes, have been sold by weight when made up in a container, and the sale is otherwise than by retail, the buyer may require all or any of the following weighings to be carried out at those premises:

- 587 (A) a weighing of that container while the food is therein³¹;
- 588 (B) a weighing of that container after the removal of the food therefrom³²;
- 589 (C) a weighing of a similar container which is empty³³,

and thereupon the seller must either carry out or permit the buyer to carry out the weighing or weighings so required; and if the seller without reasonable cause contravenes that requirement, he is guilty of an offence³⁴ and liable to a penalty³⁵.

The occupier of any premises at which any fresh fruits or vegetables, other than potatoes, are made up in a container for sale by weight otherwise than by retail, or of any premises (other than a vehicle or ship) at which such food so made up is so sold, must provide suitable weighing equipment and make that equipment available for any weighing or weighings required³⁶ to be carried out at those premises; and if he without reasonable cause contravenes that requirement, he is guilty of an offence³⁷ and liable to a penalty³⁸.

1 As to potatoes see PARA 151 post.

2 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(1)(a).

3 Ibid art 5(1)(b).

4 Ibid art 5(1)(c).

5 Ibid art 5(1)(d).

6 'Soft fruits' means fruits of the following descriptions, that is to say, bilberries, blackberries, blackcurrants, boysenberries, brambles, cherries, cranberries, gooseberries, loganberries, mulberries, raspberries, redcurrants, strawberries, tayberries and whitecurrants: ibid art 2.

7 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

8 As to the meaning of 'container' see PARA 28 note 8 ante.

9 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

10 For the meaning of 'net weight' see PARA 120 ante.

11 'Countable produce' means apples, apricots, artichokes (globe), aubergines, avocados, bananas, beetroots (including cooked), cabbage, cauliflower, capsicum, celery, coconuts, corn on the cob, cucumber, fennel, figs (fresh), garlic, grapefruit, guavas, kiwi fruit, kohlrabi, lemons, lettuce, limes, mangoes, marrows, melons, nectarines, onions (other than spring), oranges, passion fruit, pawpaw, peaches, pears, pineapple, plums, pomegranates, pomelo, pumpkins, radishes, shaddock, soft citrus fruits, tomatoes and ugli: Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 2, Sch 1 Pt I.

12 Ibid art 5(3). Article 5(3) is subject to art 5(7)-(9) (as amended) (see the text to notes 26-29 infra): art 5(3).

13 Ibid art 5(8).

14 Ibid art 5(4)(a) (amended by SI 1985/988). The Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(4) (as amended) is subject to art 5(7), (9) (as amended) (see the text to notes 26-29 infra): art 5(4) (as so amended).

- 15 Ibid art 5(4)(b) (as amended: see note 14 supra). See note 14 supra.
- 16 Ie the permitted weight specified in ibid art 5, Sch 2, Table A: see PARA 127 heads (1), (2) ante.
- 17 Ibid art 5(4)(c) (as amended: see note 14 supra). For the meaning of 'gross weight' see PARA 120 ante. See note 14 supra.
- 18 Ie the permitted weight specified in ibid art 5, Sch 2, Table B: see PARA 127 heads (a)-(d) ante.
- 19 Ibid art 5(5). Article 5(5) is subject to art 5(7) (as amended) (see the text to note 23 infra): art 5(5).
- 20 Ie ibid art 5(3)-(5) (as amended) (see the text and notes 6-19 supra).
- 21 For the meaning of 'kilogram' see PARA 44 ante.
- 22 See note 20 supra.
- 23 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(7) (amended by SI 1985/988).
- 24 The vegetables which, if sold in bunches, are so exempted are asparagus, beetroots, carrots, chives, endives, garlic, mint, mustard and cress, onions (including spring), parsley, radishes, salad cress, turnips and watercress: Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(9), Sch 1 Pt II.
- 25 Ie exempted from ibid art 5(3), (4) (as amended) (see the text and notes 6-17 supra).
- 26 Ibid art 5(9).
- 27 Ibid art 5(2), (6)(a) (amended by SI 1985/1980).
- 28 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(9), art 5(2), (6)(b) (amended by SI 1985/1980).
- 29 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 30 As to the meaning of 'ship' see PARA 27 note 5 ante.
- 31 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(10)(a).
- 32 Ibid art 5(10)(b).
- 33 Ibid art 5(10)(c).
- 34 Ibid art 5(10).
- 35 Ibid art 5(12) (amended by the Criminal Justice Act 1988 s 52). The penalty on summary conviction is a fine not exceeding level 4 on the standard scale: see the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 5(12) (as so amended). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post.
- 36 Ie under ibid art 5(10) (see the text and notes 29-34 supra).
- 37 Ibid art 5(11).
- 38 Ibid art 5(12) (as amended: see note 35 supra). The penalty on summary conviction is a fine not exceeding level 4 on the standard scale: see art 5(12) (as so amended).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/131. Meat, poultry and sausage meat.

131. Meat, poultry and sausage meat.

Meat¹ or poultry² of any description, whether fresh, chilled, frozen, salted, cooked or processed, and sausage meat in any form, whether cooked or uncooked, other than:

- 590 (1) dripping, lard, meat paste, poultry paste and shredded suet;
- 591 (2) bath chaps, meat or poultry pies, puddings and flans and sausage rolls³;
- 592 (3) cooked poultry;
- 593 (4) single cooked sausages in natural casings less than 500 grams⁴ in weight; and
- 594 (5) sausage meat products other than in sausage form when offered or exposed for sale⁵ as a single item in a quantity of less than 500 grams,

and any article which, though it also contains other food, consists substantially of meat, poultry or sausage meat, which is not pre-packed⁶ and in a quantity of five grams or more, must, if sold by retail or otherwise, be sold only by net weight⁷, or, if it is sold in a container⁸ which does not exceed the permitted weight⁹, either by net weight or by gross weight¹⁰.

Meat, poultry and sausage meat, other than bath chaps, meat or poultry pies, puddings and flans and sausage rolls¹¹, in a quantity of five grams or more must be pre-packed only if the container is marked with an indication of quantity¹² by net weight¹³.

Meat for sale in a pre-packaged form must comply with the general requirement¹⁴ that the unit price must be indicated for all products sold from bulk and pre-packaged products that are required by or under the Weights and Measures Act 1985¹⁵ to be marked with quantity or to be made up to a prescribed quantity¹⁶.

1 'Meat' means any part of an animal of any of the following descriptions, that is to say, cattle, sheep and swine: Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 2. 'Cattle' includes calves: cf *Williams v Davies* (1920) 89 LJB 1164, DC.

2 For these purposes, any reference to poultry includes a reference to any part of any poultry: Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(1).

3 It is provided that in the case of more than one item of food pre-packed in a container not marked with an indication of quantity by net weight the number of items in the container is marked on the container or is clearly visible and capable of being easily counted through the container.

4 For the meaning of 'gram' see PARA 44 ante.

5 For the meaning of 'offer or expose for sale' see PARA 109 note 2 ante.

6 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

7 For the meaning of 'net weight' see PARA 120 ante.

8 As to the meaning of 'container' see PARA 28 note 8 ante.

9 le the permitted weight specified in the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(2), Sch 2, Table A: see PARA 127 heads (1), (2) ante.

10 Ibid art 4(1)(b)-(d), (2), (3), (7)(a), (b), (8)(a), (d), (e) (amended by SI 1985/1980). For the meaning of 'gross weight' see PARA 120 ante.

11 See note 3 supra.

12 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

13 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4(4), (7)(a), (b) (amended by SI 1985/1980).

14 As to the exceptions see PARA 119 ante.

15 le by or under the Weights and Measures Act Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante) or Pt V (ss 47-68) (as amended) (see PARA 205 et seq post).

16 See the Price Marking Order 2004, SI 2004/102, art 5; and PARA 119 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/B. CHEESE, FISH, FRESH FRUIT AND VEGETABLES, MEAT AND POULTRY/132. Multipacks.

132. Multipacks.

No container¹ is required² to be marked with any information if all the following provisions are satisfied³:

595 (1) the contents of the container in which any foods⁴ are pre-packed⁵ consist of two or more packs of goods⁶;

596 (2) where any pack, if sold individually, would be required⁷ to be marked with an indication as to the quantity of the goods, the pack is so marked⁸;

597 (3) the container is marked with a description of the goods in each pack, the total number of packs containing goods of each description and, where head (2) above applies, with an indication as to the quantity of the goods in each such pack⁹; or, where each pack to which head (2) above applies contains the same quantity of identical goods, an indication as to the quantity of the goods in at least one such pack is clearly visible, and the total number of such packs is clearly visible and capable of being easily counted, through the container¹⁰; or, where each pack does not contain goods of the same description or does contain such goods but does not contain them in the same quantity, an indication as to the quantity of any goods in each pack to which head (2) above applies or, if there are two or more identical such packs, an indication as to the quantity of the goods in at least one of them, is clearly visible, and the total number of such packs of each description is clearly visible and capable of being easily counted, through the container¹¹.

- 1 As to the meaning of 'container' see PARA 28 note 8 ante.
- 2 le by the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, arts 1, 2, 4, 5 (as amended): see PARA 127 et seq ante.
- 3 Ibid art 6 (amended by SI 1985/1980).
- 4 le any foods to which the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended) applies.
- 5 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 6 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 6(a).
- 7 le by the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315 (as amended).
- 8 Ibid art 6(b).
- 9 Ibid art 6(c)(i).
- 10 Ibid art 6(c)(ii).
- 11 Ibid art 6(c)(iii).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/133. Biscuits, wafer biscuits and shortbread.

C. MISCELLANEOUS FOODS

133. Biscuits, wafer biscuits and shortbread.

Biscuits¹, other than wafer biscuits which are not cream-filled, must be pre-packed² only if they are made up in a quantity by net weight³ between 85 grams⁴ and five kilograms⁵ in prescribed quantities⁶; and, when the net weight is over 50 grams, the container⁷ must be marked with an indication of quantity⁸ by net weight⁹.

Biscuits, other than wafer biscuits which are not cream-filled, which have been pre-packed in a quantity exceeding 100 grams on the same premises as those on which they were produced, where either:

- 598 (1) the biscuits are in the possession of the producer for sale by him by retail on those premises; or
- 599 (2) if the producer has agreed to sell or has sold the biscuits, he agreed to sell or sold them by retail on those premises,

must be pre-packed only if the container is marked with an indication of quantity by net weight¹⁰.

When not pre-packed, biscuits, other than wafer biscuits which are not cream-filled, must, if sold by retail, be sold only by net weight if over eight in number¹¹.

Wafer biscuits which are not cream-filled must be pre-packed only if the container is marked with an indication of quantity by number or, in the case of a container marked with the EEC mark¹², only if it is marked with an indication of quantity by net weight¹³. Wafer biscuits which are not cream-filled and which are not pre-packed must, if sold by retail, be sold only by number¹⁴.

Shortbread must be pre-packed only if the container is marked with an indication of quantity by net weight, except in the case of shortbread:

- 600 (a) where made up in a quantity not exceeding 50 grams; or
- 601 (b) consisting of a piece or pieces each weighing 200 grams or more if the number of pieces in the container, if more than one, is marked on the container or is clearly visible and capable of being easily counted through the container¹⁵.

Except where the quantity does not exceed eight pieces, shortbread must, when not pre-packed, if sold by retail, be sold only by net weight¹⁶.

1 'Biscuits' includes wafers, rusks, crispbreads, extruded flatbread, oatcakes and matzos: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 For the meaning of 'gram' see PARA 44 ante.

5 For the meaning of 'kilogram' see PARA 44 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 100 grams, 125 grams, 150 grams, 200 grams, 250 grams, 300 grams or a multiple of 100 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (as so amended).

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 5(1), (2).

11 Ibid art 3(3), Sch 1.

12 Ie within the meaning of the Weights and Measures Act 1985 s 54: see PARA 212 post.

13 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 5(4).

14 Ibid art 5(5).

15 Ibid art 5(3).

16 Ibid art 5(6).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

133 Biscuits, wafer biscuits and shortbread

TEXT AND NOTES 12, 13--Words 'or, in the case' ...net weight' omitted: SI 1988/2040 art 5(4) (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/134. Bread.

134. Bread.

A whole loaf of bread¹ of a net weight exceeding 300 grams², when not pre-packed, must be made for sale only if it is of a net weight of 400 grams or a multiple of 400 grams³; but any sale in pursuance of a contract for the supply of bread for consumption on the premises⁴ of the buyer is exempted from the above requirements if the contract provides for each delivery of bread thereunder to be of a specified aggregate quantity of not less than 25 kilograms⁵ and for the weighing of the bread on delivery⁶. If bread is pre-packed, the container⁷ must be marked with an indication of quantity⁸ by net weight, except where the net weight of each loaf is less than 300 grams and the number of items, if more than one, in the container is marked on the container or is clearly visible and capable of being easily counted through the container⁹.

1 'Bread' means bread in any form other than breadcrumbs and includes the following, and any part of the following, that is to say, fancy loaves and milk loaves; and 'loaf', in relation to bread, includes a roll and a bap; and any pre-packed sliced bread is deemed to be a whole loaf of bread and the pre-packing of sliced bread in any quantity by net weight is deemed to be the making for sale of a whole loaf of bread of that net weight: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2. For the meaning of 'pre-packed' see PARA 28 note 7 ante; and for the meaning of 'net weight' see PARA 120 ante.

2 For the meaning of 'gram' see PARA 44 ante.

3 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, arts 3(1), 6(1), Sch 1 (amended by SI 1990/1550).

4 As to the meaning of 'premises' see PARA 27 note 5 ante.

5 For the meaning of 'kilogram' see PARA 44 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, arts 3(1), 6(2), Sch 1 (amended by SI 1990/1550).

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2), Sch 1 (amended by SI 1990/1550).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

134 Bread

TEXT AND NOTES 1-6--The requirement now also applies to a pre-packed whole loaf of bread: SI 1988/2040 art 6(1) (amended by SI 2009/663). A whole loaf of bread made up in advance ready for retail sale or wholesale in a securely closed container is now also exempted from the requirement: SI 1988/2040 art 6(2) (amended by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/135. Casein and caseinates.

135. Casein and caseinates.

Caseins¹ and caseinates² for human consumption in a quantity of not less than five grams³ must be pre-packed⁴ or otherwise made up in a container⁵ for sale only if the container is marked with an indication of quantity by net weight⁶.

1 'Casein' means the principal protein constituent of milk, washed and dried, insoluble in water and obtained from skimmed milk by precipitation by the addition of acid, or by microbial acidification, or by using rennet or by using other milk-coagulating enzymes, without prejudice to the possibility of prior use of ion exchange processes and concentration processes: Caseins and Caseinates Regulations 1985, SI 1985/2026, reg 2 (applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2).

2 'Caseinate' means a product obtained by drying casein treated with neutralising agents: Caseins and Caseinates Regulations 1985, SI 1985/2026, reg 2 (applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2).

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 7. For the meaning of 'net weight' see PARA 120 ante. As to the position where caseins and caseinates are not sold by retail see PARA 143 post; and as to offences where information in the case of casein and caseinates is given in a document accompanying a container see PARA 158 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/136. Cereal breakfast foods.

136. Cereal breakfast foods.

Cereal breakfast foods in flake form, other than cereal biscuit breakfast foods, must be pre-packed¹ only if they are made up in a quantity by net weight² between 50 grams³ and ten kilograms⁴ in prescribed quantities⁵; and when the net weight is five grams or over, the container⁶ must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, such cereal breakfast foods must, if sold by retail, be sold only by net weight⁹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms or a multiple of one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/137. Cocoa and chocolate products.

137. Cocoa and chocolate products.

Cocoa products¹ of certain reserved descriptions² must be pre-packed³ only if they are made up in a quantity by net weight⁴ between 50 grams⁵ and one kilogram⁶ in prescribed quantities⁷; and when the net weight is 50 grams or over, the container⁸ must be marked with an indication of quantity⁹ by net weight¹⁰.

Chocolate products¹¹ in bar or tablet form of certain reserved descriptions¹² must be pre-packed only if they are made up in a quantity by net weight between 85 grams and 500 grams in prescribed quantities¹³; and when the net weight is 50 grams or over, the container must be marked with an indication of quantity by net weight¹⁴.

Other cocoa products and chocolate products¹⁵ must be pre-packed or otherwise made up in a container for sale only if the container is marked with an indication of quantity by net weight¹⁶; but products pre-packed in a quantity by net weight of less than 50 grams are exempted from these requirements¹⁷.

Nothing in the above provisions requires a container to be marked with an indication of quantity by net weight if it is a container in which fancy chocolate products¹⁸ are pre-packed, except that, when the products are on sale by retail, this exemption applies only if an indication of quantity by net weight is given on a ticket or notice displayed on or in immediate proximity to the products¹⁹.

Except in the case of an article the net weight of which is less than 50 grams, cocoa products and chocolate products which are not pre-packed must, when sold by retail, be sold only by net weight²⁰.

1 'Cocoa product' has the same meaning as in the Cocoa and Chocolate Products Regulations 1976, SI 1976/541, reg 2(1) (revoked) (see now the Cocoa and Chocolate Products (England) Regulations 2003, SI 2003/1659, reg 2; the Cocoa and Chocolate Products (Wales) Regulations 2003, SI 2003/3037, reg 2; and FOOD vol 18(2) (Reissue) PARA 428), except that 'cocoa product' includes a product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2. 'Slimming claim' and 'edible substance' have the same meanings as in the Cocoa and Chocolate Products Regulations 1976, SI 1976/541, reg 2(1) (revoked): Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

2 le cocoa, cocoa powder, fat-reduced cocoa, fat-reduced cocoa powder, sweetened cocoa, sweetened cocoa powder, sweetened fat-reduced cocoa, sweetened fat-reduced cocoa powder, drinking chocolate and fat-reduced drinking chocolate.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 For the meaning of 'net weight' see PARA 120 ante.

5 For the meaning of 'gram' see PARA 44 ante.

6 For the meaning of 'kilogram' see PARA 44 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 50 grams, 75 grams, 125 grams, 250 grams, 500 grams, 750 grams and one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

8 'Container' has the same meaning as in the Cocoa and Chocolate Products Regulations 1976, SI 1976/541, reg 2(1) (revoked) (see note 1 supra; and FOOD vol 18(2) (Reissue) PARA 429): Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

9 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2), Sch 1 (amended by SI 1990/1550). As to the position where cocoa products are not sold by retail see PARA 143 post; and as to offences where information in the case of cocoa products is given in a document accompanying a container see PARA 158 post.

11 'Chocolate product' has the same meaning as in the Cocoa and Chocolate Products Regulations 1976, SI 1976/541, reg 2(1) (revoked) (see note 1 supra; and FOOD vol 18(2) (Reissue) PARA 428), except that 'chocolate product' includes a product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

12 le chocolate, plain chocolate, gianduja nut chocolate, milk chocolate, gianduja nut milk chocolate, white chocolate, filled chocolate, cream chocolate and skimmed milk chocolate.

13 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 85 grams, 100 grams, 125 grams, 150 grams, 200 grams, 250 grams, 300 grams, 400 grams and 500 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

14 Ibid art 3(2), Sch 1 (amended by SI 1990/1550). As to the position where chocolate products are not sold by retail see PARA 143 post; and as to offences where information in the case of chocolate products is given in a document accompanying a container see PARA 158 post.

15 le other than cocoa products and chocolate products specified in the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (as amended).

16 Ibid art 8(1).

17 Ibid art 8(1) proviso.

18 'Fancy chocolate product' has the same meaning as in the Cocoa and Chocolate Products Regulations 1976, SI 1976/541, reg 2(1) (revoked) (see note 1 supra; and FOOD vol 18(2) (Reissue) PARA 428): Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

19 Ibid art 8(2).

20 Ibid art 8(3).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

137 Cocoa and chocolate products

TEXT AND NOTES 1-14--SI 1988/2040 no longer applies to cocoa products of the specified reserved descriptions or chocolate products in bar or tablet form of the specified reserved descriptions: Sch 1 (further amended by SI 2005/3057).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/138. Coffee and chicory products.

138. Coffee and chicory products.

Coffee¹, coffee mixtures² and coffee bags³ must be pre-packed⁴ only if they are made up in a quantity by net weight⁵ between 25 grams⁶ and five kilograms⁷ in prescribed quantities⁸; and, when the net weight is five grams or over, the container⁹ must be marked with an indication of quantity¹⁰ by net weight¹¹. When not pre-packed, coffee, coffee mixtures and coffee bags must, if sold by retail, be sold only by net weight¹².

Coffee extracts¹³ and chicory¹⁴ products consisting of solid and paste coffee and chicory products must be pre-packed only if they are made up in a quantity by net weight between 25

grams and ten kilograms in prescribed quantities¹⁵; and the container must be marked with an indication of quantity by net weight when sold in quantities of five grams or more¹⁶. When not pre-packed, coffee and chicory extracts must, if sold by retail, be sold only by net weight¹⁷.

Liquid coffee and chicory products¹⁸ in a quantity of not less than five millilitres¹⁹ must be pre-packed or otherwise made up in a container for sale only if the container is marked with an indication of quantity by capacity measurement²⁰.

Where the contents of a container in which solid and paste coffee and chicory products²¹ or liquid coffee and chicory products are pre-packed or otherwise made up for sale consists of packs of such products not intended for individual sale, the container must, in addition to any marking otherwise required²², be marked with the total number of such packs²³.

1 'Coffee' means the dried seed of the coffee plant, whether or not such seed has been roasted or ground or both roasted and ground: Coffee and Coffee Products Regulations 1978, SI 1978/1420, reg 2(1) (revoked) (see now the Coffee Extracts and Chicory Extracts (England) Regulations 2000, SI 2000/3323, reg 2; the Coffee Extracts and Chicory Extracts (Wales) Regulations 2001, SI 2001/1440, reg 2; and FOOD vol 18(2) (Reissue) PARA 428); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

2 Ibid art 2 provides that 'coffee mixture' has the same meaning as it has in the Coffee and Coffee Products Regulations 1978, SI 1978/1420 (revoked: see note 1 supra).

3 'Coffee bag' means a permeable sealed bag, which is intended to be immersed in water or to have water percolated through it, containing coffee, or a coffee mixture, or a combination of either coffee or a coffee mixture, or both, with a lesser quantity of instant coffee: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2 (amended by SI 1990/1550). The Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2 provides that 'instant coffee' has the same meaning as it has in the Coffee and Coffee Products Regulations 1978, SI 1978/1420 (revoked) (see note 1 supra): Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

4 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

5 For the meaning of 'net weight' see PARA 120 ante.

6 For the meaning of 'gram' see PARA 44 ante.

7 For the meaning of 'kilogram' see PARA 44 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 57 grams, 75 grams, 113 grams, 125 grams, 227 grams, 250 grams, 340 grams, 454 grams, 500 grams, 680 grams, 750 grams or a multiple of 454 grams or of 500 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1994/2868). In the case of coffee bags the prescribed quantities and quantity marking relate to the contents: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 note.

9 As to the meaning of 'container' see PARA 28 note 8 ante.

10 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

11 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

12 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

13 'Coffee extract' means the product in any concentration which contains the soluble and aromatic constituents of coffee, and is obtained by extraction from roasted coffee using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base) and which may contain insoluble oils derived from coffee and insoluble substances not derived from coffee or from the water used for extraction: Coffee and Coffee Products Regulations 1978, SI 1978/1420, reg 2(1) (revoked) (see note 1 supra); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

14 'Chicory' means the product, in granular or powder form, which is obtained from the roots of *Chicorium intybus* L, other than the roots of plants used for whitloof chicory, and which has been suitably cleaned, dried and roasted; and 'chicory extract' means the product in any concentration which is obtained by extraction from roasted chicory using only water as the medium of extraction (excluding any process of hydrolysis involving the

addition of an acid or a base) and which may contain quantities of added nutrient oils, fats, sugars and molasses, or any one or more of those substances, in a proportion not exceeding 1%: Coffee and Coffee Products Regulations 1978, SI 1978/1420, reg 2(1) (revoked) (see note 1 supra); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

15 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 50 grams, 100 grams, 200 grams (for mixtures of coffee extracts and chicory extracts only), 300 grams (for coffee extracts only), 500 grams, 750 grams, one kilogram, 1.5 kilograms, two kilograms, 2.5 kilograms, three kilograms or a multiple of one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

16 Ibid art 3(1), (2), Sch 1 (amended by SI 1990/1550).

17 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

18 'Liquid coffee and chicory products' means liquid coffee extract and liquid chicory extract, and blends thereof: ibid art 2.

19 For the meaning of 'millilitre' see PARA 43 ante.

20 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 9(1). For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

21 'Solid and paste coffee and chicory products' means instant coffee, coffee extract paste, instant chicory, chicory extract paste, and blends thereof, and extracts of blends of roasted coffee and roasted chicory: ibid art 2.

22 Ie by ibid art 3(2) (as amended: see note 11 supra) and art 9(1) (see the text to note 20 supra).

23 Ibid art 9(2). As to the position where solid and paste coffee and chicory products are not sold by retail see PARA 143 post; and as to offences where information in the case of solid and paste coffee and chicory products is given in a document accompanying a container see PARA 158 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/139. Dried fruit and vegetables.

139. Dried fruit and vegetables.

Dried fruits of any one or more of the following descriptions, that is to say, apples (including dried apple rings), apricots, currants, dates, figs, muscatels, nectarines, peaches, pears (including dried pear rings), prunes, raisins, sultanas and dried fruit salad, must be pre-packed¹ only if they are made up in a quantity by net weight² between 75 grams³ and ten kilograms⁴ in prescribed quantities⁵; and when the net weight is five grams or over, the container⁶ must be marked with an indication of quantity⁷ by net weight⁸.

Dried vegetables of any one or more of the following descriptions, that is to say, beans, lentils and peas (including split peas), must be pre-packed only if they are made up in a quantity by net weight between 100 grams and ten kilograms in prescribed quantities⁹; and when the net weight is five grams or over, the container must be marked with an indication of quantity by net weight¹⁰.

When not pre-packed, dried fruit and vegetables must, if sold by retail, be sold only by net weight¹¹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams, one kilogram, 1.5 kilograms, 7.5 kilograms or a multiple of one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams, one kilogram, 1.5 kilograms, 7.5 kilograms or a multiple of one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

10 Ibid art 3(1), (2), Sch 1 (amended by SI 1990/1550).

11 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the

foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/140. Edible fats and oil.

140. Edible fats and oil.

Edible fats of any of the following descriptions:

- 602 (1) butter, margarine, any mixture of butter and margarine, and low fat spreads (butter or margarine substitutes);
- 603 (2) dripping and shredded suet;
- 604 (3) lard and compound cooking fat and substitutes therefor;
- 605 (4) solidified edible oil (except in gel form),

must be pre-packed¹ only if they are made up in a quantity by net weight², in the case of head (1) above, between 25 grams³ and ten kilograms⁴ and, in the case of heads (2) to (4) above, between five grams and ten kilograms, in prescribed quantities⁵; and the container⁶ must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, edible fats must, if sold by retail, be sold only by net weight⁹.

Liquid edible oil must be pre-packed only if the container is marked with an indication of quantity by volume¹⁰; but liquid edible oil pre-packed in a quantity of less than five millilitres¹¹ or more than 20 litres¹² is exempted from this requirement¹³.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 50 grams, 125 grams, 250 grams, 500 grams or a multiple of 500 grams up to and including four kilograms or thereafter a multiple of one kilogram up to and including ten kilograms: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550). In the case of edible fats falling within head (1) in the text, there is an exemption in respect of weights of less than five grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2), Sch 1.

9 Ibid art 3(3), Sch 1.

10 Ibid art 10.

11 For the meaning of 'millilitre' see PARA 43 ante.

12 For the meaning of 'litre' see PARA 43 ante.

13 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 10 proviso.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/141. Eggs.

141. Eggs.

Eggs¹ have been classified in three quality grades: fresh eggs ('Grade A' eggs)²; eggs of ordinary quality, the characteristics of which do not allow their inclusion in the grade 'fresh eggs' ('Grade B' eggs)³; and eggs which do not meet the requirements of the higher grades but are still suitable for human consumption ('Grade C' eggs)⁴. However, from 2004 the B and C classes or grades have been merged with appropriate adaptation regarding marking of eggs and their packs⁵.

Grade A eggs must be graded by weight as follows:

- 606 (1) XL: very large, being 73 grams⁶ or more;
- 607 (2) L: large, being from 63 grams up to 73 grams;
- 608 (3) M: medium, being from 53 grams up to 63 grams; and
- 609 (4) S: small, being under 53 grams⁷.

On packs the weight-grading must be indicated by the respective letters or by the respective terms mentioned in heads (1) to (4) above or by a combination of both, which may be supplemented by the corresponding weight ranges⁸.

1 As to the enforcement and execution of EC regulations relating to marketing standards for shell eggs and the production and marketing of eggs for hatching and of farmyard chicks, and the imposition of public health conditions relating to the sale of shell eggs and to the use of eggs in catering kitchens, see the Eggs (Marketing Standards) Regulations 1995, SI 1995/1544 (as amended); and AGRICULTURAL PRODUCTION AND MARKETING vol 1 (2008) PARA 1121.

2 As to the minimum characteristics of Grade A eggs see EC Commission Regulation 1274/91 (OJ L121, 16.5.91, p 11) reg 5.

3 As to the minimum characteristics of Grade B eggs see *ibid* reg 6.

4 As to the minimum characteristics of Grade C eggs see *ibid* reg 7.

5 See EC Council Regulation 2052/2003 (OJ L305, 22.11.2003, p 1), amending EC Council Regulation 1907/90 (OJ L173, 6.7.90, p 5) (as amended) on certain marketing standards for eggs. See also PARA 5 *ante*.

6 For the meaning of 'gram' see PARA 44 *ante*.

7 EC Commission Regulation 1274/91 (OJ L121, 16.5.91, p 11) reg 8(1).

8 *Ibid* reg 8(2). See note 5 *supra*.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

141 Eggs

NOTE 1--SI 1995/1544 replaced, in relation to England, by the Eggs and Chicks (England) Regulations 2009, SI 2009/2163 and, in relation to Wales, by the Eggs and Chicks (Wales) Regulations 2009, SI 2009/793.

NOTE 5--EC Council Regulation 1907/90 repealed and replaced from 1 July 2007 by EC Council Regulation 1028/2006 (OJ L186 7.7.2006 p 1) on marketing standards for eggs. For detailed rules implementing Regulation 1028/2006, see EC Commission Regulation 557/2007 (OJ L132, 24.5.2007, p 5) (as amended).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/142. Flour.

142. Flour.

Flour, namely flour of bean, maize, pea, rice, rye, soya bean or wheat and flour products of any of the following descriptions, that is to say, cake flour (other than cake mixtures and sponge mixtures), cornflour (other than blancmange powders and custard powders) and self-raising flour, must be pre-packed¹ only if it is made up in a quantity by net weight² between 50 grams³ and ten kilograms⁴ in prescribed quantities⁵; and when the net weight is five grams or over, the container⁶ must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, flour must, if sold by retail, be sold only by net weight⁹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 500 grams or a multiple of 500 grams and also, in the case of cornflour, 375 grams and 750 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/143. Food not sold by retail.

143. Food not sold by retail.

In the case of solid and paste coffee and chicory products¹, cocoa products² and chocolate products³, honey, caseins⁴ and caseinates⁵ or preserved milk⁶ for human consumption pre-packed⁷ or otherwise made up in a container⁸ for sale, the information required⁹ to be marked on the container may, if:

- 610 (1) the foods are not sold by retail; and
- 611 (2) the net weight¹⁰ of the foods is not less than the specified quantities¹¹ in relation to the foods,

be given at the time when they are sold in a document accompanying the container and containing an indication of quantity¹² by net weight¹³.

1 For the meaning of 'solid and paste coffee and chicory products' see PARA 138 note 21 ante.

2 For the meaning of 'cocoa product' see PARA 137 note 1 ante.

3 For the meaning of 'chocolate product' see PARA 137 note 11 ante.

4 For the meaning of 'casein' see PARA 135 note 1 ante.

5 For the meaning of 'caseinate' see PARA 135 note 2 ante.

6 For the meaning of 'preserved milk' see PARA 147 note 21 post.

7 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

8 As to the meaning of 'container' see PARA 28 note 8 ante.

9 Ie by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2) (as amended) (see PARA 142 ante) or, as the case may be, art 7 (see PARA 135 ante), art 9(2) (see PARA 138 ante) or art 12 (see PARA 147 post).

10 For the meaning of 'net weight' see PARA 120 ante.

11 The quantities specified are: (1) in the case of solid and paste coffee and chicory products, five kilograms; (2) in the case of cocoa products and chocolate products, ten kilograms; (3) in the case of honey, ten kilograms; (4) in the case of caseins and caseinates, ten kilograms; and (5) in the case of preserved milk for human consumption, ten kilograms: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 4(2).

12 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

13 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 4(1) (amended by SI 1994/2868).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance

ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/144. Grains.

144. Grains.

Barley kernels, pearl barley, rice (including ground rice and rice flakes), sago, semolina and tapioca, must be pre-packed¹ only if they are made up in a quantity by net weight² between 75 grams³ and ten kilograms⁴ in prescribed quantities⁵; and when the net weight is five grams or over, the container⁶ must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, such grains must, if sold by retail, be sold only by net weight⁹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams or a multiple of 500 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (as so amended).

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art

3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/145. Honey.

145. Honey.

Honey, other than chunk honey and comb honey, must be pre-packed¹ only if it is made up in a quantity by net weight² of 50 grams³ or over in prescribed quantities⁴; and when the net weight is five grams or over, the container⁵ must, in the case of all honey, whether pre-packed or otherwise, be marked with an indication of quantity⁶ by net weight⁷. When not pre-packed, honey, other than chunk honey and comb honey, must, if sold by retail, be sold only by net weight⁸.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 57 grams, 113 grams, 227 grams, 340 grams, 454 grams, 680 grams or a multiple of 454 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1994/2868). As to the position when honey is not sold by retail see PARA 143 ante; and as to offences where, in the case of honey, information is given in a document accompanying a container see PARA 158 post.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art

3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/146. Jam and marmalade.

146. Jam and marmalade.

Jam and marmalade (other than diabetic jam or marmalade) and jelly preserves must be pre-packed¹ only if they are made up in a quantity by net weight² of 50 grams³ or over in prescribed quantities⁴; and when the net weight is five grams or over, the container⁵ must be marked with an indication of quantity⁶ by net weight⁷. When not pre-packed, jam and marmalade (other than diabetic jam or marmalade) and jelly preserves must, if sold by retail, be sold only by net weight⁸.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 57 grams, 113 grams, 227 grams, 340 grams, 454 grams, 680 grams or a multiple of 454 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1994/2868).

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/147. Fresh and preserved milk.

147. Fresh and preserved milk.

Milk¹, other than milk in a returnable container, must be pre-packed² only if it is sold by capacity measurement³ over 50 millilitres⁴ in prescribed quantities⁵.

Milk in a returnable container must be pre-packed only if it is sold by capacity measurement over 50 millilitres in prescribed quantities⁶.

Milk which is not pre-packed must be sold only by capacity measurement or by net weight⁷.

If, in the case of any pre-packed milk made up in a quantity of less than 250 millilitres, its container is clearly and conspicuously marked with a statement in writing that it is not for sale otherwise than by means of a vending machine, then, notwithstanding that the milk is made up in a quantity other than one which is specified⁸ in relation to milk, a person is not by reason only of that fact guilty of an offence⁹:

- 612 (1) in respect of a sale of that milk by that or any other person if the sale is by means of a vending machine or is otherwise than by retail¹⁰; or
- 613 (2) in respect of the possession of that milk by that or any other person if the milk is shown to be in that possession for sale by means of a vending machine which complies with the prescribed requirements¹¹, or for sale otherwise than by retail, or for delivery after sale otherwise than by retail¹².

Milk may be sold by means of, or offered or exposed for sale in, a vending machine¹³ only if there is displayed on or in the machine:

- 614 (a) an indication of the quantity¹⁴ by capacity measurement of the milk comprised in each item for sale by means of that machine¹⁵; and
- 615 (b) except where the machine is on premises¹⁶ at which the seller carries on business, a statement of the name and address of the seller¹⁷.

Milk that is for sale in a pre-packaged form must comply with the general requirement¹⁸ that the unit price must be indicated for all products sold from bulk and pre-packaged products that are required by or under the Weights and Measures Act 1985¹⁹ to be marked with quantity or to be made up to a prescribed quantity²⁰.

Preserved milk²¹ for human consumption in a quantity of not less than five grams²² must be pre-packed or otherwise made up in a container for sale only if the container is marked with an indication of quantity by net weight²³.

1 'Milk' means cows' milk in any liquid form other than that of condensed milk (including evaporated milk) or dried milk: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2. 'Condensed milk' means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, dried milk or sucrose, which has been concentrated by the partial removal of water, but does not include dried milk: Condensed Milk and Dried Milk Regulations 1977, SI 1977/928, reg 2(1) (revoked) (see now the Condensed Milk and Dried Milk (England) Regulations 2002, SI 2003/1596, reg 2; and the Condensed Milk and Dried Milk (Wales) Regulations 2003, SI 2003/3053, reg 2); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2. 'Dried milk' means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, which has been

concentrated to the form of powder, granule or solid by the removal of water: Condensed Milk and Dried Milk Regulations 1977, SI 1977/928, reg 2(1) (revoked); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

4 For the meaning of 'millilitre' see PARA 43 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550; SI 1994/2868). The quantities prescribed are 189 millilitres, 200 millilitres, 250 millilitres, 284 millilitres, 500 millilitres, 750 millilitres or a multiple of 284 millilitres or of 500 millilitres: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2), Sch 1 (as so amended).

6 Ibid art 3(1), Sch 1 (as amended: see note 5 supra). The quantities prescribed are: (1) one-third of a pint, one-half of a pint or a multiple of one-half of a pint; and (2) 200 millilitres, 250 millilitres, 500 millilitres, 750 millilitres or a multiple of 500 millilitres: Sch 1 (as so amended).

7 Ibid art 11(1). For the meaning of 'net weight' see PARA 120 ante.

8 Ie a quantity other than one of those specified in ibid Sch 1 (as amended).

9 Ibid art 11(2) (amended by SI 1994/2868). The offence referred to in the text is an offence under the Weights and Measures Act 1985 s 25(2): see PARA 113 ante.

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 11(2)(a).

11 Ie the requirements of ibid art 11(3): see the text to notes 13-17 infra.

12 Ibid art 11(2)(b).

13 As to the information to be displayed on or in a milk vending machine see the Weights and Measures (Milk and Solid Fuel Vending Machines) Regulations 1980, SI 1980/246.

14 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

15 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 11(3)(a).

16 As to the meaning of 'premises' see PARA 27 note 5 ante.

17 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 11(3)(b).

18 As to the exceptions see PARA 119 ante.

19 Ie by or under the Weights and Measures Act Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante) or Pt V (ss 47-68) (as amended) (see PARA 205 et seq post).

20 See the Price Marking Order 2004, SI 2004/102, art 5; and PARA 119 ante.

21 'Preserved milk' means condensed milk (including evaporated milk) or dried milk: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

22 For the meaning of 'gram' see PARA 44 ante.

23 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 12. As to the position when preserved milk for human consumption is not sold by retail see PARA 143 ante; and as to offences where, in the case of preserved milk for human consumption, information is given in a document accompanying a container see PARA 158 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

147 Fresh and preserved milk

TEXT AND NOTES 8-12--SI 1988/2040 art 11(2) revoked: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/148. Molasses, syrup and treacle.

148. Molasses, syrup and treacle.

Molasses, syrup and treacle must be pre-packed¹ only if they are made up in a quantity by net weight² of 50 grams³ or over in prescribed quantities⁴; and when the net weight is five grams or over, the container⁵ must be marked with an indication of quantity⁶ by net weight⁷. When not pre-packed, molasses, syrup and treacle must, if sold by retail, be sold only by net weight⁸.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 57 grams, 113 grams, 227 grams, 340 grams, 454 grams, 680 grams or a multiple of 454 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1994/2868).

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/149. Oat products.

149. Oat products.

Oat products, namely flour of oats, oatflakes and oatmeal, must be pre-packed¹ only if they are made up in a quantity by net weight² between 50 grams³ and ten kilograms⁴ in prescribed quantities⁵; and when the net weight is five grams or over, the container⁶ must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, oat products must, if sold by retail, be sold only by net weight⁹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms or a multiple of one kilogram: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

6 As to the meaning of 'container' see PARA 28 note 8 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/150. Pasta.

150. Pasta.

Pasta must be pre-packed¹ only if it is made up in a quantity by net weight² over 50 grams³ in prescribed quantities⁴; and when the net weight is five grams or over, the container⁵ must be marked with an indication of quantity⁶ by net weight⁷. When not pre-packed, pasta must, if sold by retail, be sold only by net weight⁸.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 For the meaning of 'net weight' see PARA 120 ante.

3 For the meaning of 'gram' see PARA 44 ante.

4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 375 grams, 500 grams or a multiple of 500 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/151. Potatoes.

151. Potatoes.

Potatoes¹ must be pre-packed² only if they are made up in a quantity by net weight³ in prescribed quantities⁴; and the container⁵ must be marked with an indication of quantity⁶ by net weight⁷. There are exemptions:

- 616 (1) from the above weight requirements where: (a) the net weight of each potato is not less than 175 grams; and (b) potatoes are packed in quantities less than five grams or more than 25 kilograms⁸;
- 617 (2) from the above marking requirements where: (a) the net weight of each potato is not less than 175 grams and the container is marked with an indication of quantity by number and with a statement to the effect that each potato in the container is of a net weight not less than a weight specified in grams, whether the weight so specified is 175 grams or a greater weight; and (b) potatoes are sold in quantities of less than five grams⁹.

Potatoes which are not pre-packed must, if sold by retail, be sold only by net weight or, if the food is sold in a container which does not exceed the permitted weight¹⁰, either by net weight or gross weight¹¹.

Where at any premises¹² other than a vehicle or ship¹³ any potatoes have been sold by weight when made up in a container, and the sale is otherwise than by retail, the buyer may require all or any of the following weighings to be carried out at those premises, that is to say:

- 618 (i) a weighing of that container while the potatoes are therein;
- 619 (ii) a weighing of that container after the removal of the potatoes therefrom;
- 620 (iii) a weighing of a similar container which is empty,

and thereupon the seller must either carry out or permit the buyer to carry out the weighing or weighings so required; and, if the seller without reasonable excuse contravenes this requirement, he is guilty of an offence and liable to a penalty¹⁴.

The occupier of any premises at which any potatoes are made up in a container for sale by weight otherwise than by retail, or of any premises (other than a vehicle or ship) at which such potatoes so made up are so sold, must provide suitable weighing equipment and make that equipment available for any weighing or weighings required under the above provisions to be

carried out at those premises; and if he without reasonable excuse contravenes any of these requirements, he is guilty of an offence and liable to a penalty¹⁵.

- 1 'Potatoes' means potatoes in the state in which they were harvested or in that state apart from cleaning: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.
- 2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 3 For the meaning of 'net weight' see PARA 120 ante.
- 4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 500 grams, 750 grams, one kilogram, 1.5 kilograms, two kilograms, 2.5 kilograms or a multiple of 2.5 kilograms up to and including 15 kilograms, 20 kilograms or 25 kilograms: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1994/2868). For the meanings of 'gram' and 'kilogram' see PARA 44 ante.
- 5 As to the meaning of 'container' see PARA 28 note 8 ante.
- 6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550).
- 8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550).
- 9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2), Sch 1 (amended by SI 1990/1550).
- 10 The permitted weight is: (1) where the gross weight does not exceed 500 grams, five grams; and (2) where the gross weight exceeds 500 grams, a weight at the rate of ten grams per kilogram of the gross weight: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 14, Sch 2, Table. For the meaning of 'gross weight' see PARA 120 ante.
- 11 Ibid art 14.
- 12 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 13 As to the meaning of 'ship' see PARA 27 note 5 ante.
- 14 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 13(1), (3). The penalty on summary conviction is a fine not exceeding £2,000: see art 13(1), (3). As to prosecution of offences see PARA 226 post.
- 15 Ibid art 13(2), (3). The penalty on summary conviction is a fine not exceeding £2,000: see art 13(2), (3).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance

ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/152. Pre-packed foods to be marked with quantity by number.

152. Pre-packed foods to be marked with quantity by number.

Food of any of the following descriptions:

- 621 (1) cereal biscuit breakfast foods, other than foods in the case of which none of the biscuits weighs more than ten grams¹;
- 622 (2) flour confectionery², except when consisting of uncooked pastry or uncooked pastry cases, not containing any filling, or shortbread³;
- 623 (3) fruit preservative tablets, rennet tablets, saccharin tablets, soft drink tablets and sweetening tablets⁴;
- 624 (4) shell eggs⁵;
- 625 (5) vanilla pods⁶;
- 626 (6) capsule and tablet foods⁷,

must be pre-packed⁸ only if the container⁹ is marked with an indication of quantity¹⁰ by number¹¹.

There are exempted from the above requirements:

- 627 (a) flour confectionery, if the number of items in the container is clearly visible and capable of being easily counted through the container¹²; and
- 628 (b) any foods in a quantity by number of one¹³.

1 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 15(1)(a). For the meaning of 'gram' see PARA 44 ante.

2 'Flour confectionery' means any cooked food which is ready for consumption without further preparation (other than reheating) of which a characterising ingredient is ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases; and it also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded fat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish, shellfish, vegetable protein material or microbial protein material: Food Labelling Regulations 1984, SI 1984/1305, reg 2(1) (revoked) (see now the Food Labelling Regulations 1996, SI 1996/1499, reg 2); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.

3 Ibid art 15(1)(b). As to shortbread see PARA 133 ante.

4 Ibid art 15(1)(c).

5 Ibid art 15(1)(d).

6 Ibid art 15(1)(e).

7 Ibid art 15(1)(f).

8 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

9 As to the meaning of 'container' see PARA 28 note 8 ante.

- 10 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 11 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 15(1).
- 12 Ibid art 15(2)(a).
- 13 Ibid art 15(2)(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/153. Salt.

153. Salt.

Salt must be pre-packed¹ only if it is made up in a quantity by net weight² over 100 grams³ in prescribed quantities⁴; and when the net weight is five grams or over, the container⁵ must be marked with an indication of quantity⁶ by net weight⁷. When not pre-packed, salt must, if sold by retail, be sold only by net weight⁸.

- 1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 2 For the meaning of 'net weight' see PARA 120 ante.
- 3 For the meaning of 'gram' see PARA 44 ante.
- 4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms or a multiple of one kilogram up to and including ten kilograms, 12.5 kilograms, 25 kilograms or 50 kilograms: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.
- 5 As to the meaning of 'container' see PARA 28 note 8 ante.
- 6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/154. Sugar.

154. Sugar.

Sugar must be pre-packed¹ or otherwise made up in a container² for sale only if it is made up in a quantity by net weight³ between 100 grams⁴ and five kilograms⁵ in prescribed quantities⁶; and when the net weight is 50 grams or over, the container must be marked with an indication of quantity⁷ by net weight⁸. When not pre-packed, sugar must, if sold by retail, be sold only by net weight⁹.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 For the meaning of 'gram' see PARA 44 ante.

5 For the meaning of 'kilogram' see PARA 44 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 125 grams, 250 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms, two kilograms, 2.5 kilograms, three kilograms, four kilograms or five kilograms: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/155. Tea and tea bags.

155. Tea and tea bags.

Tea, other than instant tea or tea in a tea bag¹, must be pre-packed² only if it is made up in a quantity by net weight³ between 25 grams⁴ and five kilograms⁵ in prescribed quantities⁶; and when the net weight is five grams or over, the container⁷ must be marked with an indication of quantity⁸ by net weight⁹.

Tea in a tea bag must be pre-packed only if it is made up in a quantity by net weight between 25 grams and five kilograms in prescribed quantities¹⁰; and when the net weight is five grams or over, the container must be marked with an indication of quantity by net weight¹¹.

When not pre-packed, tea must, if sold by retail, be sold only by net weight¹².

1 'Tea bag' means a permeable sealed bag, containing tea, which is intended to be immersed in water in the course of preparation to drink: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550).

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 For the meaning of 'gram' see PARA 44 ante.

5 For the meaning of 'kilogram' see PARA 44 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 50 grams, 125 grams, 250 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms, two kilograms, 2.5 kilograms, three kilograms, four kilograms or five kilograms and also, in the case of tea, other than instant tea or tea in a tea bag, packed in tins or glass or wooden containers,

100 grams and 300 grams: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (amended by SI 1990/1550).

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

9 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), (2), Sch 1 (amended by SI 1990/1550).

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(1), Sch 1 (amended by SI 1990/1550). The quantities prescribed are 50 grams, 125 grams, 250 grams, 500 grams, 750 grams, one kilogram, 1.5 kilograms, two kilograms, 2.5 kilograms, three kilograms, four kilograms or five kilograms: Sch 1. In the case of tea in a tea bag the prescribed quantities and quantity marking relate to the contents: Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, Sch 1 (as so amended).

11 Ibid art 3(1), (2), Sch 1 (amended by SI 1990/1550).

12 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(3), Sch 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

133-155 Biscuits, wafer biscuits and shortbread ... Tea and tea bags

SI 1988/2040 art 3(1) does not apply to pre-packed foods which are made up in a quantity other than a prescribed quantity provided the package has been brought into the United Kingdom from another member state in which a package made up in such a quantity can lawfully be marketed: art 3(4) (added by SI 2005/3057). If any of the foods (other than chunk honey) specified in SI 1988/2040 Sch 1 is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in art 3(1) that it be sold only in one of the quantities specified in Sch 1 in relation to the food does not apply: art 3(5) (added by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/156. Other pre-packed foods to be marked with quantity by net weight or capacity measurement.

156. Other pre-packed foods to be marked with quantity by net weight or capacity measurement.

Foods of any description which are not goods:

629 (1) required¹ to be pre-packed² only if the container³ is marked with an indication of quantity⁴; or

630 (2) in the case of which, when sold pre-packed (whether on any sale or on a sale of any particular description), the quantity of the goods sold expressed in a particular manner is required⁵ to be made known to the buyer at or before a particular time⁶; or

631 (3) expressly exempted⁷ from all such requirements which would otherwise apply⁸,

must be pre-packed only if the container is marked with an indication of quantity either by net weight⁹ or by capacity measurement¹⁰.

The following are exempted from the above requirements:

- 632 (a) bread and bun loaves, fruit loaves, malt loaves and fruited malt loaves¹¹;
- 633 (b) cheese, fish, meat and poultry¹² and fresh fruits and vegetables other than potatoes¹³ and dates¹⁴;
- 634 (c) freeze drinks in a quantity of less than 50 millilitres¹⁵;
- 635 (d) herbs, whole and sifted, except saffron, in a quantity of less than 25 grams¹⁶;
- 636 (e) iced lollies and water ices¹⁷;
- 637 (f) intoxicating liquor¹⁸;
- 638 (g) milk¹⁹;
- 639 (h) potato crisps and other similar products commonly known as snack foods in a quantity of less than 25 grams²⁰;
- 640 (i) single portion vending machine beverage packs in a quantity of less than 25 grams or of less than 25 millilitres whether or not they contain other foods to which these provisions do not apply²¹;
- 641 (j) single toffee apples²²;
- 642 (k) soft drinks of any description in a syphon²³;
- 643 (l) sugar confectionery²⁴ consisting of rock or barley sugar in sticks or novelty shapes²⁵;
- 644 (m) sugar confectionery not included in heads (1) to (3) above, and chocolate confectionery²⁶, in a quantity of less than 50 grams²⁷;
- 645 (n) goods of any other description, except saffron, in a quantity of less than five grams or of less than five millilitres²⁸.

1 Ie by any other provision of the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended) (see also PARAS 133 et seq ante, 157 post) or under or by virtue of any provision of the Weights and Measures Act 1985.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(1)(a). For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

5 See note 1 supra.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(1)(b).

7 See note 1 supra.

8 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(1)(c).

9 For the meaning of 'net weight' see PARA 120 ante.

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(1), (2). For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

11 Ibid art 16(3)(a).

12 Ie food to which the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984, SI 1984/1315, art 4 (as amended) applies: see PARAS 128-129, 131 ante.

13 Ie food to which ibid art 5 (as amended) applies: see PARA 130 ante.

- 14 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(3)(b).
- 15 Ibid art 16(3)(c). For the meaning of 'millilitre' see PARA 43 ante.
- 16 Ibid art 16(3)(d). For the meaning of 'gram' see PARA 44 ante.
- 17 Ibid art 16(3)(e).
- 18 Ibid art 16(3)(f). The reference in the text is a reference to intoxicating liquor to which the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 6 applies: see PARAS 165-166 post.
- 19 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 16(3)(g).
- 20 Ibid art 16(3)(h).
- 21 Ibid art 16(3)(i).
- 22 Ibid art 16(3)(j).
- 23 Ibid art 16(3)(k).
- 24 'Sugar confectionery' means any food which is ready for consumption without further preparation, of which a characterising ingredient is carbohydrate sweetening matter, and includes sweetened liquorice and chewing gum, but does not include any chocolate confectionery, chocolate products, cocoa products, flour confectionery, edible ice, table jellies, slab marzipan or sugar: Food Labelling Regulations 1984, SI 1984/1305, reg 2(1) (revoked) (see now the Food Labelling Regulations 1996, SI 1996/1499, reg 2); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2. For the meaning of 'flour confectionery' see PARA 152 note 2 ante.
- 25 Ibid art 16(3)(l).
- 26 'Chocolate confectionery' means any food which is ready for consumption without further preparation, of which a characterising ingredient is chocolate, cocoa or non-fat cocoa solids, and includes food of which a characterising ingredient is carbohydrate sweetening matter and which has a chocolate or chocolate-flavoured coating, but does not include any biscuits, chocolate products, flour confectionery or edible ice: Food Labelling Regulations 1984, SI 1984/1305, reg 2(1) (revoked) (see now the Food Labelling Regulations 1996, SI 1996/1499, reg 2); applied by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 2.
- 27 Ibid art 16(3)(m).
- 28 Ibid art 16(3)(n).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/157. Multipacks of food.

157. Multipacks of food.

No container¹ is required² to be marked with any information nor are foods of a particular quantity required² to be enclosed if all the following provisions are satisfied³:

- 646 (1) the contents of the container in which any foods⁴ are pre-packed⁵ or otherwise made up in the container for sale consist of two or more packs of goods⁶;
- 647 (2) where the goods in any pack, if sold individually, would be required⁷ to be made up in a specified quantity, the goods in any such pack are so made up⁸;
- 648 (3) where any pack, if sold individually, would be required⁹ to be marked with an indication as to the quantity of the goods, the pack is so marked¹⁰;
- 649 (4) the container is marked with a description of the goods in each pack, the total number of packs containing goods of each description and, where head (3) above applies, with an indication as to the quantity of the goods in each such pack¹¹; or, where each pack to which head (3) above applies contains the same quantity of identical goods, an indication as to the quantity of the goods in at least one such pack is clearly visible, and the total number of such packs is clearly visible and capable of being easily counted, through the container¹²; or, where each pack does not contain goods of the same description or does contain such goods but does not contain them in the same quantity, an indication as to the quantity of any goods in each pack to which head (3) above applies or, if there are two or more identical such packs, an indication as to the quantity of the goods in at least one of them, is clearly visible, and the total number of such packs of each description is clearly visible and capable of being easily counted, through the container¹³.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Ie by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, arts 1-16 (as amended): see PARA 133 et seq ante.

3 Ibid art 17(1).

4 Ie foods to which the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended) applies.

5 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

6 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 17(1)(a). Where the provisions of both art 4 (as amended) (see PARA 143 ante) and art 17(1) apply in a particular case, the information permitted by art 17(1)(d)(i) to be marked on the container may be given in a document accompanying the container: art 17(2).

7 Ie by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040 (as amended).

8 Ibid art 17(1)(b). See also note 6 supra.

9 See note 7 supra.

10 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 17(1)(c). See also note 6 supra.

11 Ibid art 17(1)(d)(i). See also note 6 supra.

12 Ibid art 17(1)(d)(ii). See also note 6 supra.

13 Ibid art 17(1)(d)(iii). See also note 6 supra.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(i) Food/C. MISCELLANEOUS FOODS/158. Offences where information is given in a document accompanying the container.

158. Offences where information is given in a document accompanying the container.

The provisions relating to offences in respect of transactions in particular goods¹ apply in the case of any solid and paste coffee and chicory products², cocoa products³ and chocolate products⁴, honey, caseins⁵ and caseinates⁶ or preserved milk⁷ for human consumption pre-packed⁸ or otherwise made up in a container⁹ for sale where the information required¹⁰ or permitted¹¹ to be marked on the container is given in a document accompanying the container¹², subject to certain modifications¹³.

Where the provisions relating to offences in respect of transactions¹⁴ apply by virtue of the above provisions, a person is not guilty of an offence¹⁵ by reason only of:

- 650 (1) having in his possession for sale¹⁶; or
- 651 (2) having in his possession for delivery after sale¹⁷; or
- 652 (3) causing or suffering any other person to have in his possession for sale or for delivery after sale¹⁸,

solid and paste coffee and chicory products, cocoa products and chocolate products, honey, caseins or caseinates or preserved milk for human consumption pre-packed or otherwise made up in a container for sale otherwise than in a container so accompanied¹⁹.

1 Ie the Weights and Measures Act 1985 s 25(2), (3): see PARA 113 ante.

2 For the meaning of 'solid and paste coffee and chicory products' see PARA 138 note 21 ante.

3 For the meaning of 'cocoa product' see PARA 137 note 1 ante.

4 For the meaning of 'chocolate product' see PARA 137 note 11 ante.

5 For the meaning of 'casein' see PARA 135 note 1 ante.

6 For the meaning of 'caseinate' see PARA 135 note 2 ante.

7 For the meaning of 'preserved milk' see PARA 147 note 21 ante.

8 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

9 As to the meaning of 'container' see PARA 28 note 8 ante.

10 Ie required by the Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 3(2) (as amended) (see PARAS 137-138, 145, 147 ante), art 7 (see PARA 135 ante), art 9(2) (see PARA 138 ante) or art 12 (see PARA 147 ante).

11 Ie permitted by ibid art 17(1)(d)(i): see PARA 157 ante.

12 Ie in accordance with ibid art 4 (as amended) (see PARA 143 ante) or art 17(2) (see PARA 157 ante).

13 Ibid art 18(1). As to the modifications see art 18(1)(a), (b).

14 See note 1 supra.

- 15 le under the Weights and Measures Act 1985 s 25(2).
- 16 Weights and Measures (Miscellaneous Foods) Order 1988, SI 1988/2040, art 18(2)(a).
- 17 Ibid art 18(2)(b).
- 18 Ibid art 18(2)(c).
- 19 Ibid art 18(2).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/159. Price marking.

(ii) Alcoholic Liquor

159. Price marking.

Prices of drink must be indicated at premises where drink is offered for consumption on those premises¹.

¹ See the Price Marking (Food and Drink Services) Order 2003, SI 2003/2253, art 4; and PARA 14 ante. Where the food is sold by reference to quantity or weight there must be an indication of the price for each quantity or weight: see art 4(1)(b). See also LICENSING AND GAMBLING vol 67 (2008) PARA 220.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/160. Beer and cider.

160. Beer and cider.

Unless pre-packed¹ in a securely closed container² and except when sold³ as a constituent of a mixture of two or more liquids, beer⁴ or cider⁵ must be sold by retail:

- 653 (1) only in a quantity of one-third of a pint⁶, one-half of a pint or a multiple of one-half of a pint⁷; and
 654 (2) where sold for consumption on the premises⁸ of the seller, only in a capacity measure⁹ of the quantity in question¹⁰.

Head (2) above does not, however, apply where:

- 655 (a) the quantity of the intoxicating liquor the subject of the sale is ascertained by means of duly stamped measuring equipment¹¹;
 656 (b) the liquor in question is delivered directly from the measuring equipment into the container in which it is intended the buyer should receive it¹²;
 657 (c) the liquor in question is so delivered after the buyer has ordered it¹³; and
 658 (d) the measuring equipment, or that part of it from which the liquor is delivered, is installed in such a position that the delivery of the liquor into the container can readily be seen by customers in that part of the premises where the buyer ordered the liquor¹⁴.

If head (2) above is contravened¹⁵, the occupier of the premises in question is guilty of an offence¹⁶ and liable to a penalty¹⁷.

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 Previously it was clear that, in respect of intoxicating liquor, only a licensee could 'sell', but now, for purposes unrelated to licensing, the sale of alcoholic drink is on the same basis of sales of other foods: see *Nottingham City Council v Wolverhampton and Dudley Breweries plc* [2003] EWHC 2847 (Admin), [2004] QB 1275, [2004] 1 All ER 1352; and FOOD vol 18(2) (Reissue) PARAS 360-361. As to sales without a justices' licence see LICENSING AND GAMBLING vol 67 (2008) PARA 162. As to the sale of goods generally see SALE OF GOODS AND SUPPLY OF SERVICES.

4 Except where the context expressly otherwise requires, 'beer' includes ale, porter, stout and any other description of beer, and any liquor which is made or sold as a description of beer or as a substitute for beer and which is of a strength exceeding 0.5%, but does not include black beer the worts whereof before fermentation were of a specific gravity of 1200° or more: Alcoholic Liquor Duties Act 1979 s 1(3) (amended by the Finance Act 1991 ss 7(4), 123, Sch 2 para 2, Sch 19 Pt II; and the Finance Act 1993 s 3(1)); applied by the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 1(2) (amended by SI 1990/1550). The Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) in part implements EC Council Directive 89/108 (as amended) and EC Council Directive 2000/13 (as amended) (see PARA 5 ante). See further CUSTOMS AND EXCISE.

5 Except where the context expressly otherwise requires, 'cider' means, subject to the Alcoholic Liquor Duties Act 1979 s 55B(1) (as added), cider of a strength exceeding 1.2% but less than 8.5% obtained from the fermentation of apple juice without the addition at any time of any alcoholic liquor or any liquor or substance which communicates colour or flavour other than such as the Commissioners of Customs and Excise may allow as appearing to them to be necessary to make cider: s 1(6) (amended by the Finance Act 1984 s 1(5); the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979, SI 1979/241, arts 4, 5(b); the Finance Act 1995 s 1(1), (3), (6); and the Finance Act 1997 s 5(2)(b), (5)); applied and amended by the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 1(2) (amended by SI 1990/1550; SI 1994/2868). See further CUSTOMS AND EXCISE.

6 For the meaning of 'pint' see PARA 43 ante.

7 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 2(1)(a). The Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended) implements EC Council Directive 88/316 (OJ L143, 10.6.88, p 26), amending EC Council Directive 75/106 (OJ L42, 15.2.75, p 1) on the making up by volume of certain pre-packaged liquids (as amended). See PARA 5 ante.

8 As to the meaning of 'premises' see PARA 27 note 5 ante.

- 9 For the meaning of 'capacity measurement' see PARA 117 note 16 ante.
- 10 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 2(1)(b). See note 7 supra.
- 11 Ibid art 2(2)(a). The reference in the text is a reference to measuring equipment stamped in accordance with the Measuring Equipment (Intoxicating Liquor) Regulations 1983, SI 1983/1656 (as amended): see PARA 92 ante.
- 12 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 2(2)(b).
- 13 Ibid art 2(2)(c).
- 14 Ibid art 2(2)(d).
- 15 As to the meaning of 'contravene' see PARA 46 note 12 ante.
- 16 Ie without prejudice to the provisions of the Weights and Measures Act 1985 s 25: see PARA 113 ante.
- 17 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 7(1), (2). The penalty on summary conviction is a fine not exceeding £2,000: see art 7(1), (2). As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

160 Beer and cider

NOTE 4--SI 1988/2039 art 1(2) further amended: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/161. Spirits.

161. Spirits.

Unless pre-packed¹ in a securely closed container², intoxicating liquor of any of the following descriptions, that is to say, gin, rum, vodka and whisky, must be sold³ by retail for consumption on the premises⁴ at which it is sold only:

- 659 (1) in, or in a multiple of, one of the following quantities, which is the same for those parts of any licensed premises or licensed canteen⁵ of which any person is the licensee and for all those liquors, that is to say, 25 millilitres⁶ or 35 millilitres⁷; and
- 660 (2) if there is displayed on those premises, in such a position and manner as to be readily available without special request for inspection by the buyer before the sale is made, a statement in writing showing in which of those quantities those liquors are offered for sale on those premises⁸.

Any such liquor is exempted from the above requirements when it forms a constituent of a mixture of three or more liquids⁹.

Nothing in the above provisions makes unlawful the sale at the express request of the buyer of any mixture of liquids containing any of those liquors in a quantity not otherwise permitted by the above provisions¹⁰.

If head (2) above is contravened¹¹, the occupier of the premises in question is guilty of an offence¹² and liable to a penalty¹³.

- 1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 2 As to the meaning of 'container' see PARA 28 note 8 ante.
- 3 As to the meaning 'sale' see PARA 160 note 3 ante.
- 4 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 5 Ie within the meaning of the Licensing Act 1964 (prospectively repealed).
- 6 For the meaning of 'millilitre' see PARA 43 ante.
- 7 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 3(1)(a) (amended by SI 1990/1550; SI 1994/1883).
- 8 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 3(1)(b).
- 9 Ibid art 3(2).
- 10 Ibid art 3(3).
- 11 As to the meaning of 'contravene' see PARA 46 note 12 ante.
- 12 Ie without prejudice to the provisions of the Weights and Measures Act 1985 s 25: see PARA 113 ante.
- 13 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 7(1), (2). The penalty on summary conviction is a fine not exceeding £2,000: see art 7(1), (2). As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/162. Wine and made-wine.

162. Wine and made-wine.

Wine¹ and made-wine² for consumption on the premises³ at which it is sold⁴ must:

- 661 (1) be pre-packed⁵ only in one of the following quantities, that is to say, 25 centilitres⁶, 50 centilitres, 75 centilitres or one litre⁷;
- 662 (2) when not pre-packed, be sold only in those quantities⁸; and
- 663 (3) whether pre-packed or not, be sold only if a statement in writing showing the quantities in which wine or made-wine is for sale is either displayed on those

premises in such a position and manner as to be readily available without special request for inspection by the buyer before the sale is made, or is contained in every wine list and menu which is available to the buyer on those premises before the sale is made and which indicates that wine or made-wine is for sale for consumption on those premises⁹.

The above provisions do not apply in the case of wine or made-wine which is pre-packed in a securely closed container¹⁰ whether or not it is to be decanted at the request of the buyer before being served or is sold¹¹ in the glass or other vessel from which it is intended to be drunk¹².

When sold in the glass or other vessel from which it is intended to be drunk, wine¹³ for consumption on the premises at which it is sold must be sold only:

- 664 (a) in, or in a multiple of, the following quantities, that is to say, 125 millilitres¹⁴ and 175 millilitres¹⁵; and
- 665 (b) if a statement in writing of the kind required by head (3) above is displayed or otherwise provided as required by head (3) above¹⁶,

but nothing in this requirement makes unlawful the sale, at the express request of the buyer, of any mixture of liquids containing wine in a quantity not otherwise so permitted¹⁷.

If either head (2) or head (b) above is contravened¹⁸, the occupier of the premises in question is guilty of an offence¹⁹ and liable to a penalty²⁰.

1 Except where the context expressly otherwise requires, 'wine' means any liquor which is of a strength exceeding 1.2% and which is obtained from the alcoholic fermentation of fresh grapes or of the must of fresh grapes, whether or not the liquor is fortified with spirits or flavoured with aromatic extracts: Alcoholic Liquor Duties Act 1979 s 1(4) (amended by the Finance Act 1995 s 1(1), (2), (5)); applied by the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 1(2) (amended by SI 1990/1550). See further CUSTOMS AND EXCISE.

2 Except where the context expressly otherwise requires, 'made-wine' means, subject to the Alcoholic Liquor Duties Act 1979 s 1(10) (as added) and s 55B(1) (as added), any liquor which is of a strength exceeding 1.2% and which is obtained from the alcoholic fermentation of any substance or by mixing a liquor so obtained or derived from a liquor so obtained with any other liquor or substance but does not include wine, beer, black beer, spirits or cider: s 1(5) (amended by the Finance Act 1988 s 1, Sch 1 Pt II para 1(3); the Finance Act 1995 s 1(1), (2), (5); and the Finance Act 1997 s 5(2)(a)); applied by the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 1(2) (amended by SI 1990/1550). See further CUSTOMS AND EXCISE.

3 As to the meaning of 'premises' see PARA 27 note 5 ante.

4 As to the meaning of 'sale' see PARA 160 note 3 ante.

5 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

6 For the meaning of 'centilitre' see PARA 43 ante.

7 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5(1)(a) (amended by SI 1994/2868). For the meaning of 'litre' see PARA 43 ante.

8 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5(1)(b).

9 Ibid art 5(1)(c).

10 As to the meaning of 'container' see PARA 28 note 8 ante.

11 Ie subject to the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5A (as added) (see note 13 infra).

12 Ibid art 5(2) (amended by SI 1990/1550).

13 'Wine' means only: (1) wine of fresh grapes, grape must with fermentation prevented or arrested by the addition of alcohol, including wine made of unfermented grape juice blended with alcohol, grape must in fermentation or with fermentation arrested otherwise than by the addition of alcohol, of subheadings 2204 21 21 to 2204 21 39 inclusive, 2204 29 21 to 2204 29 39 inclusive and 2204 30 10; (2) 'yellow wines' entitled to use the following designations of origin, namely 'Côtes du Jura', 'Arbois', 'L'Etoile' and 'Château-Chalon': Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5A(1), Sch 1 Pt I col 1 (art 5A added by SI 1990/1550). For these purposes, references to a subheading are references to a subheading of the Combined Nomenclature of the European Community: Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 1(2).

14 For the meaning of 'millilitre' see PARA 43 ante.

15 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5A(2)(a) (as added: see note 13 supra).

16 Ibid art 5A(2)(b) (as added: see note 13 supra).

17 Ibid art 5A(3) (as added: see note 13 supra).

18 As to the meaning of 'contravene' see PARA 46 note 12 ante.

19 Ie without prejudice to the provisions of the Weights and Measures Act 1985 s 25: see PARA 113 ante.

20 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 7(1), (2) (amended by SI 1990/1550). The penalty on summary conviction is a fine not exceeding £2,000: see the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 7(1), (2) (as so amended). As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

162 Wine and made-wine

NOTE 2--SI 1988/2039 art 1(2) further amended: SI 2009/663.

NOTE 20--SI 1988/2039 art 7(1) further amended: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/163. Wine and grape must and yellow wine.

163. Wine and grape must and yellow wine.

Wine and grape must¹ must be pre-packed² only if they are made up between five millilitres³ and ten litres⁴ in the prescribed quantities⁵ by volume⁶; and if they are made up between five millilitres and ten litres, they must be pre-packed in a closed container⁷ only if the container is marked with an indication of quantity⁸ by volume⁹.

Yellow wine¹⁰ must be pre-packed only if it is made up in the prescribed quantity¹¹ by volume¹²; and it must be pre-packed in a closed container only if the container is marked with an indication of quantity by volume¹³.

1 The wine of fresh grapes, grape must with fermentation prevented or arrested by the addition of alcohol, including wine made of unfermented grape juice blended with alcohol, grape must in fermentation or with fermentation arrested otherwise than by the addition of alcohol, of subheadings 2204 21 21 to 2204 21 39 inclusive, 2204 29 21 to 2204 29 39 inclusive and 2204 30 10. For the meaning of references to a subheading see PARA 162 note 13 ante.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'millilitre' see PARA 43 ante.

4 For the meaning of 'litre' see PARA 43 ante.

5 The quantities prescribed are ten centilitres, 25 centilitres, 37.5 centilitres, 50 centilitres, 75 centilitres, one litre, 1.5 litres, two litres, three litres, four litres, five litres, six litres, eight litres, nine litres and ten litres and, for consumption on board aircraft, ships and trains, or for sale duty-free, 18.7 centilitres: Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 4(1), Sch 1 Pt I. For the meaning of 'centilitre' see PARA 43 ante.

6 Ibid art 4(1), Sch 1 Pt I (amended by SI 1990/1550). Wine to which the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 5(1)(a) (as amended) (see PARA 162 head (1) ante) applies and quantities not exceeding 25 centilitres, when for consumption on the premises of the seller, are exempted: Sch 1 Pt I (as so amended).

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 For the meaning of 'indication by quantity' see PARA 28 note 12 ante.

9 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 6(1), Sch 1 Pt I.

10 The wines entitled to use the following designations of origin, namely 'Côtes du Jura', 'Arbois', 'L'Etoile' and 'Château-Chalon'.

11 The quantity prescribed is 62 centilitres: Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 4(1), Sch 1 Pt I.

12 Ibid art 4(1), Sch 1 Pt I.

13 Ibid art 6(1), Sch 1 Pt I.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

163-165 Wine and grape must and yellow wine ... Spirits, liqueurs etc

SI 1988/2039 art 4 revoked; Sch 1 amended; art 3A, Sch A1 added: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/164. Sparkling wine.

164. Sparkling wine.

Sparkling wine¹ must be pre-packed² only if it is made up between five millilitres³ and ten litres⁴ in the prescribed quantities⁵ by volume⁶; and if it is made up between five millilitres and ten litres, it must be pre-packed in a closed container⁷ only if the container is marked with an indication of quantity⁸ by volume⁹.

1 The sparkling wine and wine in bottles with 'mushroom' stoppers held in place by ties or fastenings and wine otherwise made up with an excess pressure of not less than one bar but less than three bar, measured at a temperature of 20°C, of subheadings 2204 10 11, 2204 10 19, 2204 10 90, 2204 21 10 and 2204 29 10. For the meaning of references to a subheading see PARA 162 note 13 ante.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'millilitre' see PARA 43 ante.

4 For the meaning of 'litre' see PARA 43 ante.

5 The quantities prescribed are 12.5 centilitres, 20 centilitres, 37.5 centilitres, 75 centilitres, 1.5 litres, three litres, 4.5 litres, six litres and nine litres: Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 4(1), Sch 1 Pt II. For the meaning of 'centilitre' see PARA 43 ante.

6 Ibid art 4(1), Sch 1 Pt II. Sparkling wine for consumption on board aircraft, ships and trains or for sale duty-free and sparkling wine when made up in securely closed containers before 1 January 1991 are exempted: Sch 1 Pt II.

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 For the meaning of 'indication by quantity' see PARA 28 note 12 ante.

9 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 6(1), Sch 1 Pt II.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

163-165 Wine and grape must and yellow wine ... Spirits, liqueurs etc

SI 1988/2039 art 4 revoked; Sch 1 amended; art 3A, Sch A1 added: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/165. Spirits, liqueurs etc.

165. Spirits, liqueurs etc.

Spirits and liqueurs¹ must be pre-packed² or otherwise made up in a container³ for sale only if they are made up between five millilitres⁴ and ten litres⁵ in the prescribed quantities⁶ by volume⁷; and if they are made up between five millilitres and ten litres, they must be made up in a container for sale only if the container is marked with an indication of quantity⁸ by volume⁹.

- 1 The spirits, liqueurs and other spirituous beverages and compound alcoholic preparations of a kind used for the manufacture of beverages, of subheadings 2208 10 10 and 2208 90 79 inclusive. For the meaning of references to a subheading see PARA 162 note 13 ante.
- 2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 3 As to the meaning of 'container' see PARA 28 note 8 ante.
- 4 For the meaning of 'millilitre' see PARA 43 ante.
- 5 For the meaning of 'litre' see PARA 43 ante.
- 6 The quantities prescribed are two centilitres, three centilitres, four centilitres, five centilitres, 7.1 centilitres, ten centilitres, 20 centilitres, 35 centilitres, 50 centilitres, 70 centilitres, one litre, 1.5 litres, two litres, 2.5 litres, three litres and 4.5 litres and, in the case of non-retail sales only, 1.125 litres, five litres and ten litres: Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 4(1), Sch 1 Pt III. For the meaning of 'centilitre' see PARA 43 ante.
- 7 Ibid art 4(1), Sch 1 Pt III. Spirits and liqueurs of less than ten centilitres, where aerated water or soda has been added, spirits and liqueurs for consumption on board aircraft, ships and trains or for sale duty-free, and spirits and liqueurs when made up in securely closed containers before 1 January 1992 are exempted: Sch 1 Pt III.
- 8 For the meaning of 'indication by quantity' see PARA 28 note 12 ante.
- 9 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 6(1), Sch 1 Pt III.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

163-165 Wine and grape must and yellow wine ... Spirits, liqueurs etc

SI 1988/2039 art 4 revoked; Sch 1 amended; art 3A, Sch A1 added: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/166. Other pre-packed intoxicating liquor.

166. Other pre-packed intoxicating liquor.

Intoxicating liquor¹ other than wine and grape must², yellow wines³, sparkling wine⁴ and spirits and liqueurs⁵ must be pre-packed⁶ in a closed container⁷ in a quantity of five millilitres⁸ or more but not exceeding five litres⁹ only if the container is marked with an indication of quantity¹⁰ by volume¹¹.

- 1 For the meaning of 'intoxicating liquor' see PARA 46 note 8 ante.
- 2 As to wine and grape must see PARA 163 ante.
- 3 As to yellow wines see PARA 163 ante.
- 4 As to sparkling wine see PARA 164 ante.

- 5 As to spirits and liqueurs see PARA 165 ante.
- 6 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 7 As to the meaning of 'container' see PARA 28 note 8 ante.
- 8 For the meaning of 'millilitre' see PARA 43 ante.
- 9 For the meaning of 'litre' see PARA 43 ante.
- 10 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 11 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 6(2).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(ii) Alcoholic Liquor/167. Multipacks.

167. Multipacks.

No container¹ is required² to be marked with any information or to enclose intoxicating liquor³ or other liquids of a particular quantity if all the following provisions are satisfied⁴:

- 666 (1) the contents of the container in which any intoxicating liquor or other liquids is pre-packed⁵ consist of two or more packs of goods⁶;
- 667 (2) where the goods in any pack, if sold individually, would be required⁷ to be made up in a specified quantity, the goods in any such pack are so made up⁸;
- 668 (3) where any pack, if sold individually, would be required⁹ to be marked with an indication as to the quantity of the goods, the pack is so marked¹⁰;
- 669 (4) the container is marked with a description of the goods in each pack, the total number of packs containing goods of each description and, where head (3) above applies, with an indication as to the quantity of the goods in each such pack¹¹; or, where each pack to which head (3) above applies contains the same quantity of identical goods, an indication as to the quantity of the goods in at least one such pack is clearly visible, and the total number of such packs is clearly visible and capable of being easily counted, through the container¹²; or, where each pack does not contain goods of the same description or does contain such goods but does not contain them in the same quantity, an indication as to the quantity of any goods in each pack to which head (3) above applies or, if there are two or more identical such packs, an indication as to the quantity of the goods in at least one of them is clearly visible, and the total number of such packs of each description is clearly visible and capable of being easily counted, through the container¹³.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 le by the Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039 (as amended): see PARA 160 et seq ante.

3 For the meaning of 'intoxicating liquor' see PARA 46 note 8 ante.

4 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 8.

5 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

6 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 8(a).

7 See note 2 supra.

8 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 8(b).

9 See note 2 supra.

10 Weights and Measures (Intoxicating Liquor) Order 1988, SI 1988/2039, art 8(c).

11 Ibid art 8(d)(i).

12 Ibid art 8(d)(ii).

13 Ibid art 8(d)(iii).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iii) Sand and Ballast/168. Meaning of 'ballast'.

(iii) Sand and Ballast

168. Meaning of 'ballast'.

'Ballast' means¹ any of the following materials:

- 670 (1) sand, gravel, shingle, ashes and clinker of any description²;
- 671 (2) broken slag, slag chippings, granite chippings, limestone chippings, slate chippings and other stone chippings (including such materials which have been coated with tar, bitumen or cement)³;
- 672 (3) any other material commonly used in the building and civil engineering industries as a hardcore or an aggregate⁴; and
- 673 (4) any other material commonly known in those industries as ballast⁵.

1 le for the purposes of the Weights and Measures Act 1985 s 21, Sch 4 (as amended): see PARA 169-170 post.

2 Ibid Sch 4 para 1(a).

3 Ibid Sch 4 para 1(b).

4 Ibid Sch 4 para 1(c).

5 Ibid Sch 4 para 1(d).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iii) Sand and Ballast/169. Sand and other ballast.

169. Sand and other ballast.

Ballast¹ must be sold only by volume in a multiple of 0.2 cubic metre² or by net weight³; but the following are exempted from this requirement:

- 674 (1) ballast in a quantity both less than one tonne⁴ and less than one cubic metre⁵;
- 675 (2) any sale with a view to its industrial use⁶ of ballast of any specified description⁷;
- 676 (3) any sale in the case of which the buyer is to take delivery in or from a ship⁸;
- 677 (4) any sale as a whole of ballast produced in the demolition or partial demolition of a building where the buyer is responsible for the removal of the ballast from the site of the building⁹; and
- 678 (5) any sale in the state in which it was produced of clinker or ashes produced as a by-product, or of any other ballast produced as a casual product, of the carrying on of an industrial process on any premises or of the mining of coal where the buyer is responsible for the removal of the ballast from those premises or, as the case may be, from the colliery tip¹⁰.

No article must be used for trade¹¹ as a cubic measure of ballast other than a receptacle (which may, if so desired, form part of a vehicle) which conforms with such requirements as to form, capacity, calibration and other matters as may be prescribed¹²; and any person who uses for trade, or has in his possession for use for trade, as a cubic measure of ballast any article other than such a receptacle is guilty of an offence and liable to a penalty¹³.

In measuring any ballast against a calibration mark on such a receptacle, the ballast must be filled into all parts of the receptacle as far as, and be levelled off against, that calibration mark as nearly as the nature of the ballast will permit; and where any ballast is measured for the purposes of trade in such a receptacle, any person who, being the person carrying out the measuring, fails so to level off the ballast when it is loaded into the receptacle, or causes or permits a heaped load to be sent out in the receptacle, is guilty of an offence and liable to a penalty¹⁴.

1 For the meaning of 'ballast' see PARA 168 ante.

2 For the meaning of 'cubic metre' see PARA 42 ante.

3 Weights and Measures Act 1985 Sch 4 para 2. Schedule 4 para 2 is subject to Sch 4 para 3 (see the text and notes 4-10 infra): Sch 4 para 2. For the meaning of 'net weight' see PARA 120 ante.

4 For the meaning of 'tonne' see PARA 44 ante.

5 Weights and Measures Act 1985 Sch 4 para 3(a) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (4)(a)).

6 'Industrial use', in relation to any goods, means the use of those goods in the manufacture of, or incorporation in, goods of a different description in the course of the carrying on of a business: Weights and Measures Act 1985 s 94(1).

7 Ibid Sch 4 para 3(b). The reference in the text is a reference to any description of ballast mentioned in Sch 4 para 1(b), (c) or (d): see PARA 168 heads (2)-(4) ante.

8 Ibid Sch 4 para 3(c). As to the meaning of 'ship' see PARA 27 note 5 ante.

9 Ibid Sch 4 para 3(d).

10 Ibid Sch 4 para 3(e).

11 Ie without prejudice to ibid s 15: see PARA 67 ante. For the meaning of 'use for trade' see PARA 66 ante.

12 'Prescribed' means prescribed by the Secretary of State by regulations: ibid s 94(1). At the date at which this volume states the law, no such regulations had been made but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Cubic Measures (Ballast and Agricultural Materials) Regulations 1978, SI 1978/1962 (amended by SI 1988/765) (see PARA 79 ante) have effect as if so made. As to the making of regulations generally see PARA 3 ante. As to the Secretary of State see PARA 16.

13 Weights and Measures Act 1985 s 84(1), (2), Sch 4 para 4. The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see s 84(1), (2), Sch 4 para 4. As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

14 Ibid s 84(1), (2), Sch 4 para 5. The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see s 84(1), (2), Sch 4 para 5.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

169 Sand and other ballast

TEXT AND NOTE 3--Ballast must now only be so sold if not made up in advance ready for retail sale or wholesale in a securely closed container: Weights and Measures Act 1985 Sch 4 para 2(b) (Sch 4 para 2 substituted by SI 2009/663). If so made up in advance, ballast must be sold only by volume or by net weight: Weights and Measures Act 1985 Sch 4 para 2(a). Schedule 4 para 2 is now subject to Sch 4 paras 3, 11: Weights and Measures Act 1985 Sch 4 para 2.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iii) Sand and Ballast/170. Carriage of ballast by road.

170. Carriage of ballast by road.

The following provisions have effect with respect to the carriage of ballast¹ by a road vehicle on a journey any part of which is along a highway².

If any of the ballast is being carried for delivery to a buyer in pursuance of, or of an agreement for, its sale and the restriction on the sale by volume³ applies to the sale, the following provisions⁴ have effect with respect to that ballast⁵.

Before the journey begins, there must be delivered to the person in charge of the vehicle a document signed by or on behalf of the seller ('the delivery document') stating:

- 679 (1) the name and address of the seller⁶;
- 680 (2) the name of the buyer, and the address of the premises⁷ to which the ballast is being delivered⁸;
- 681 (3) the type of the ballast⁹;
- 682 (4) the quantity of the ballast either by net weight¹⁰ or by volume¹¹;
- 683 (5) sufficient particulars to identify the vehicle¹²; and
- 684 (6) the place, date and time of the loading of the ballast in the vehicle¹³.

Where the quantity of the ballast is stated in the delivery document by volume, the ballast must be carried on the vehicle only in a receptacle¹⁴ which conforms with the prescribed requirements¹⁵.

If any of the above provisions is contravened¹⁶, the seller is guilty of an offence and liable to a penalty¹⁷.

If all or any of the ballast on the vehicle is being carried in such circumstances that the above provisions¹⁸ do not apply to it, there must, before the journey begins, be delivered to the person in charge of the vehicle a document containing a statement to that effect signed by or on behalf of the person causing that ballast to be carried and giving the name and address of the last-mentioned person; and, if this provision is contravened, the last-mentioned person is guilty of an offence and liable to a penalty¹⁹.

Any document required by the above provisions²⁰ must at all times during the journey be carried by the person for the time being in charge of the vehicle and must be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and, in the case of a delivery document²¹, on the unloading of the ballast to which the document relates at the premises to which the ballast is to be delivered:

- 685 (a) before any of that ballast is so unloaded, the document must be handed over to the buyer²²; or
- 686 (b) if the document cannot be so handed over by reason of the absence of the buyer, it must be left at some suitable place at those premises²³,

and if at any time any of these provisions is contravened without reasonable cause, the person in charge of the vehicle at that time is guilty of an offence and liable to a penalty²⁴.

In the case of a delivery document²⁵, if at any time during the journey or on unloading at the place of delivery the quantity of the ballast to which the document relates is found to be less than that stated in the document, the statement is nevertheless deemed to be correct if, but only if, it is proved that the deficiency is solely attributable to the draining away of normal moisture from, or the consolidation of, the ballast during the journey²⁶.

1 For the meaning of 'ballast' see PARA 168 ante.

- 2 Weights and Measures Act 1985 s 21, Sch 4 para 6.
- 3 *Ie* *ibid* Sch 4 para 7(2)-(7): see the text to notes 5-17 *infra*.
- 4 *Ie* the restriction in *ibid* Sch 4 para 2: see PARA 169 *ante*.
- 5 *Ibid* Sch 4 para 7(1). If the vehicle is carrying ballast as mentioned in Sch 4 para 7(1) for delivery to each of two or more persons, Sch 4 para 7(1)-(3) apply separately in relation to each of those persons; but this provision is not to be construed as prohibiting the use of the same receptacle such as is mentioned in Sch 4 para 7(3) for the carriage of ballast for delivery to two or more different persons: Sch 4 para 7(7).
- 6 *Ibid* Sch 4 para 7(2)(a).
- 7 As to the meaning of 'premises' see PARA 27 note 5 *ante*.
- 8 Weights and Measures Act 1985 Sch 4 para 7(2)(b).
- 9 *Ibid* Sch 4 para 7(2)(c).
- 10 For the meaning of 'net weight' see PARA 120 *ante*.
- 11 Weights and Measures Act 1985 Sch 4 para 7(2)(d). The statement referred to in Sch 4 para 7(2)(d) is not required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the whole of the vehicle's load is being delivered to the same person at the same premises and the delivery document states that the quantity of the ballast is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated: Sch 4 para 7(4). In any case to which Sch 4 para 7(4) applies, the person in charge of the vehicle at the time when the net weight of the ballast is determined must forthwith add to the delivery document a statement of that net weight, and, if he fails to do so, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: s 84(6), Sch 4 para 7(5). As to the standard scale see PARA 229 note 1 *post*. As to offences by corporations see PARA 230 *post*; and as to prosecution of offences see PARA 226 *post*.
- 12 *Ibid* Sch 4 para 7(2)(e).
- 13 *Ibid* Sch 4 para 7(2)(f).
- 14 *Ie* a receptacle such as is mentioned in *ibid* Sch 4 para 4: see PARA 169 *ante*.
- 15 *Ibid* Sch 4 para 7(3).
- 16 As to the meaning of 'contravene' see PARA 46 note 12 *ante*.
- 17 Weights and Measures Act 1985 s 84(6), Sch 4 para 7(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 4 para 7(6).
- 18 *Ie* *ibid* Sch 4 para 7.
- 19 *Ibid* s 84(6), Sch 4 para 8(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 4 para 8(1). Schedule 4 para 8(1) does not, however, apply where all the ballast in the vehicle is being carried in such circumstances that Sch 4 para 7 does not apply to it and is being so carried in a container which does not form part of the vehicle: Sch 4 para 8(2).
- 20 *Ie* *ibid* Sch 4 para 7 or Sch 4 para 8.
- 21 *Ie* any such document as is mentioned in *ibid* Sch 4 para 7.
- 22 *Ibid* Sch 4 para 9(a).
- 23 *Ibid* Sch 4 para 9(b).
- 24 *Ibid* Sch 4 para 9. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see Sch 4 para 9.
- 25 See note 21 *supra*.
- 26 Weights and Measures Act 1985 Sch 4 para 10.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/171. Meaning of 'solid fuel'.

(iv) Solid Fuel

A. IN GENERAL

171. Meaning of 'solid fuel'.

'Solid fuel' means¹ coal, coke and any solid fuel derived from coal or of which coal or coke is a constituent².

¹ le for the purposes of the Weights and Measures Act 1985 s 21, Sch 5 (as amended): see PARA 172 et seq post.

² Ibid Sch 5 para 1.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/172. Sales by net weight.

172. Sales by net weight.

Solid fuel¹ must be sold only by net weight², except in the case of briquettes in a quantity not exceeding 7.5 kilograms³ and any solid fuel pre-packed⁴ in a securely closed container⁵ marked⁶ with an indication of quantity⁷ by net weight⁸.

¹ For the meaning of 'solid fuel' see PARA 171 ante.

² Weights and Measures Act 1985 s 21, Sch 5 para 2(1). For the meaning of 'net weight' see PARA 120 ante.

- 3 For the meaning of 'kilogram' see PARA 44 ante.
- 4 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 5 As to the meaning of 'container' see PARA 28 note 8 ante.
- 6 As to the meaning of 'mark' see PARA 28 note 10 ante.
- 7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 8 Weights and Measures Act 1985 Sch 5 para 2(2) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(a)).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/173. Quantities in containers.

173. Quantities in containers.

Solid fuel¹ must be made up in a container² for sale, or for delivery after sale, only if it is made up in one of the following quantities by net weight³, namely:

- 687 (1) 25 kilograms⁴;
- 688 (2) 50 kilograms⁵;
- 689 (3) any multiple of 50 kilograms⁶,

but the above requirements do not apply to any solid fuel pre-packed in a quantity not exceeding 30 kilograms in a securely closed container⁷.

- 1 For the meaning of 'solid fuel' see PARA 171 ante.
- 2 As to the meaning of 'container' see PARA 28 note 8 ante.
- 3 For the meaning of 'net weight' see PARA 120 ante.
- 4 Weights and Measures Act 1985 s 21, Sch 5 para 3(1)(a) (Sch 5 para 3(1) substituted by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(b)). The Weights and Measures Act 1985 Sch 5 para 3 (as amended) has effect subject to the exemptions in Sch 5 para 7 (see PARA 176 post): Sch 5 para 3(4). For the meaning of 'kilogram' see PARA 44 ante.
- 5 Ibid Sch 5 para 3(1)(b) (as substituted: see note 4 supra).
- 6 Ibid Sch 5 para 3(1)(c) (as substituted: see note 4 supra).
- 7 Ibid Sch 5 para 3(2).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

173 Quantities in containers

TEXT AND NOTES--Solid fuel must now only be so sold if not made up in advance ready for retail sale or wholesale in a securely closed container: Weights and Measures Act 1985 Sch 5 para 3(1)(b) (Sch 5 para 3(1) substituted by SI 2009/663). If so made up in advance, solid fuel must be sold only by net weight: Weights and Measures Act 1985 Sch 5 para 3(1)(a). Schedule 5 para 3(2) revoked: SI 2009/663.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/174. Indication of quantity.

174. Indication of quantity.

Where solid fuel¹ is made up in a container² for sale, or for delivery after sale, except where it is made up in a container which is not securely closed, the solid fuel must be made up in a container for sale, or for delivery after sale, only if the container is marked with an indication of quantity³ by net weight⁴.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

4 Weights and Measures Act 1985 s 21, Sch 5 para 4(1), (2) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(c)). The Weights and Measures Act 1985 Sch 5 para 4 (as amended) has effect subject to the exemptions in Sch 5 para 7 (see PARA 176 post): Sch 5 para 3(4). For the meaning of 'net weight' see PARA 120 ante.

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/175. Information about containers.

175. Information about containers.

Where solid fuel¹ is carried on a road vehicle on a highway for sale, or for delivery after sale, and is made up in containers² which are not securely closed or is delivered from the vehicle in such containers³, there must be displayed on the vehicle:

- 690 (1) an indication of the quantity, or quantities, by net weight⁴ of the fuel comprised in the containers (other than securely closed containers) on, or delivered from, the vehicle⁵; and
- 691 (2) a statement of the name and address of the seller⁶.

If the above provisions are contravened⁷, the seller, and any other person who is in charge of the vehicle at the time of the contravention, are each guilty of an offence and liable to a penalty⁸.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 Weights and Measures Act 1985 s 21, Sch 5 para 6(1) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(e)). The Weights and Measures Act 1985 Sch 5 para 6 (as amended) has effect subject to the exemptions in Sch 5 para 7 (see PARA 176 post): Sch 5 para 3(4).

4 For the meaning of 'net weight' see PARA 120 ante.

5 Weights and Measures Act 1985 Sch 5 para 6(2)(a). Regulations under s 23 (see PARA 106 ante) may prescribe the manner in which the information required by Sch 5 para 6(2) is to be displayed; and a person who contravenes any such regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: s 84(6), Sch 5 para 6(3). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. At the date at which this volume states the law, no such regulations had been made but, by virtue of the Interpretation Act 1978 s 17(2)(b), the Weights and Measures (Solid Fuel) Regulations 1978, SI 1978/238, have effect as if so made. They prescribe: (1) the manner in which information required by the Weights and Measures Act 1985 Sch 5 para 6 (as amended) is to be displayed on a vehicle; (2) the terms in which information as to quantities is to be given; and (3) the form in which that information and the required statement of the name and address of the seller is to be displayed.

6 Ibid Sch 5 para 6(2)(b).

7 As to the meaning of 'contravene' see PARA 46 note 12 ante.

8 Weights and Measures Act 1985 s 84(6), Sch 5 para 6(4). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 6(4).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/176. Exemptions.

176. Exemptions.

There are exempted from all the requirements relating to solid fuel¹:

- 692 (1) solid fuel supplied under arrangements made in the coal industry for the supply of solid fuel to persons who are or have been employed in that industry or to the dependants of such persons²;
- 693 (2) solid fuel made up in a container³ only for ease of handling as part of the load of a vehicle or ship⁴ where the whole of that load, so far as it consists of solid fuel, is being delivered to a single buyer⁵.

1. All the requirements of the Weights and Measures Act 1985 s 21, Sch 5 paras 3, 4, 6 (as amended): see PARAS 173-175 ante. For the meaning of 'solid fuel' see PARA 171 ante.

2. Ibid Sch 5 para 7(a). The allowance of concessionary coal to employees is not a sale by the employer: *Gregory v National Coal Board* [1965] Crim LR 44, DC.

3. As to the meaning of 'container' see PARA 28 note 8 ante.

4. As to the meaning of 'ship' see PARA 27 note 5 ante.

5. Weights and Measures Act 1985 Sch 5 para 7(b).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/177. Vending machines.

177. Vending machines.

Solid fuel¹ must be sold by means of, or offered or exposed for sale in, a vending machine only if there is displayed on or in the machine an indication of the quantity by net weight² of the fuel comprised in each item for sale by means of that machine and, except where the machine is on premises³ at which the seller carries on a business, a statement of the name and address of the seller⁴.

1. For the meaning of 'solid fuel' see PARA 171 ante.

2. For the meaning of 'net weight' see PARA 120 ante.

3. As to the meaning of 'premises' see PARA 27 note 5 ante.

4. Weights and Measures Act 1985 s 21, Sch 5 para 8. The information to be so displayed on or in a solid fuel vending machine must be displayed in accordance with the Weights and Measures (Milk and Solid Fuel Vending Machines) Regulations 1980, SI 1980/246.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/178. Byelaws.

178. Byelaws.

A local weights and measures authority¹ may make byelaws², subject to the confirmation of the Secretary of State³:

- 694 (1) for securing that on any premises⁴ within its area or from which solid fuel⁵ available for purchase in a quantity of 100 kilograms⁶ or less is sold or kept or exposed for sale there is displayed a notice specifying the price of the fuel⁷;
- 695 (2) prohibiting the sale on or from any such premises of any such fuel at a higher price than that so displayed in relation to that fuel⁸; and
- 696 (3) prescribing penalties⁹ for an offence under such byelaws¹⁰.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 In any byelaw made under the Weights and Measures Act 1985 Sch 5 para 9 (as amended), including Sch 5 para 9 (as amended) as extended to wood fuel by Sch 6 para 14 (see PARA 203 post), references to 1,120, or 224, or 14 pounds are to be construed as references to 500, or 100, or 7.5 kilograms respectively; and where any such byelaw contains a requirement not only to mark a price clearly and legibly but to mark it in figures of at least three inches in height, the reference to three inches is to be construed as a reference to 7.5 centimetres: Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (8)(a).

Any byelaws made by a local authority for any of the purposes mentioned in the Weights and Measures Act 1985 Sch 5 para 9 (as amended) which immediately before 30 January 1986 (ie the commencement date of the Weights and Measures Act 1985) were in force by virtue of the Weights and Measures Act 1963 s 21(1), Sch 6 para 5(2) (repealed) continue in force by virtue of this provision notwithstanding the repeal by the Weights and Measures Act 1985 of the Weights and Measures Act 1963 Sch 6 para 5(2); and any authority which immediately before 30 January 1986 had power to revoke any such byelaws to any extent continues to have that power: Weights and Measures Act 1985 s 96(1), Sch 11 para 23. The provisions of Sch 11 (as amended) are without prejudice to the operation of the Interpretation Act 1978 ss 16, 17 (effect of repeals: see STATUTES vol 44(1) (Reissue) PARA 1306 et seq): Weights and Measures Act 1985 s 96(3).

Any provision contained in a byelaw made under the Weights and Measures Act 1963 Sch 6 para 5 (repealed), including Sch 6 para 5 (repealed) as extended to wood fuel by Sch 7 Pt IV para 4 (repealed), which: (1) immediately before 17 July 1978 (ie the commencement date of the Criminal Law Act 1977 s 31(3)) specified £20 as the maximum fine which might be imposed on summary conviction in respect of a contravention of, or an offence under, any byelaw mentioned in that provision; and (2) immediately before 30 January 1986 had effect by virtue of s 31(3) as if it specified £50 instead, continues to have effect as if it specified £50: Weights and Measures Act 1985 Sch 11 para 24.

In any of the following, namely: (a) any byelaw made under the Weights and Measures Act 1963 Sch 6 para 5 (repealed), including Sch 6 para 3 (repealed) as extended to wood fuel by Sch 7 Pt IV para 4 (repealed); (b) any byelaw made under Sch 7 Pt IV para 2 (repealed); and (c) any byelaw made under any enactment repealed by the Weights and Measures Act 1963, where the byelaw is continued in force by virtue of Sch 6 para 5(2) (repealed), references to a ton, half a ton, two hundredweights, a hundredweight, a quarter or a stone (or to the equivalent number of pounds in the case of each of those quantities) are to be construed as references to 1,000, 500, 100, 50, 15 or 7.5 kilograms respectively: Weights and Measures Act 1985 Sch 11 para 25 (substituted by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (7)). The re-enactment in the Weights and Measures Act 1985 Sch 11 para 25 (as substituted) of provisions contained in the Units of

Measurement Regulations 1978, SI 1978/484 (revoked) and the Units of Measurement Regulations 1980, SI 1980/1070 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(b).

Where any byelaw to which Sch 11 para 25 (as substituted) applies contains a requirement not only to mark a price clearly and legibly but to mark it in figures of at least three inches in height, the reference to three inches is to be construed as a reference to 7.5 centimetres: Sch 11 para 26 (added by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (7)).

3 As to the Secretary of State see PARA 16 ante.

4 As to the meaning of 'premises' see PARA 27 note 5 ante.

5 For the meaning of 'solid fuel' see PARA 171 ante.

6 For the meaning of 'kilogram' see PARA 44 ante.

7 Weights and Measures Act 1985 s 21, Sch 5 para 9(a) (amended by the Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (6)(a)).

8 Weights and Measures Act 1985 Sch 5 para 9(b).

9 ie not exceeding level 2 on the standard scale: see *ibid* Sch 5 para 9(c). As to the standard scale see PARA 229 note 1 post.

10 *Ibid* Sch 5 para 9(c).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see *LOCAL GOVERNMENT* vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/179. Damping of fuel.

179. Damping of fuel.

Any person who with intent to defraud or deceive damps any solid fuel¹ is guilty of an offence and liable to a penalty².

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 Weights and Measures Act 1985 ss 21, 84(4)(b), Sch 5 para 10. The penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 21, 84(4)(b), Sch 5 para 10. As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/A. IN GENERAL/180. Sale of fuel from vehicles.

180. Sale of fuel from vehicles.

The following provisions apply to any vehicle which is used on highways for carrying solid fuel¹ for sale, or for delivery after sale².

The Secretary of State³ may by order make provision:

- 697 (1) for securing the display on any such vehicle of an indication of the quantities in which solid fuel is made up in containers⁴;
- 698 (2) for requiring all containers carried on or delivered from any one vehicle to be made up in the same quantity, or for regulating in any other way the quantities in which they are made up⁵;
- 699 (3) for imposing any requirement as to the loading of the vehicle, or the delivery of solid fuel from the vehicle, which appears to the Secretary of State appropriate for securing that purchasers are not misled as to the quantity of fuel they purchase⁶.

Any such order may:

- 700 (a) make provision for any of the purposes mentioned above by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any of the provisions relating to solid fuel⁷;
- 701 (b) contain such consequential, incidental or supplementary provision as appear to the Secretary of State to be expedient⁸;
- 702 (c) may in particular make provision, in respect of contraventions of the order for which no penalty is provided by the Weights and Measures Act 1985, for the imposition of penalties not exceeding those provided⁹ for an offence under that Act¹⁰.

An order relating to transactions in particular goods¹¹ may amend or repeal any of the provisions relating to solid fuel¹².

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 Weights and Measures Act 1985 s 21, Sch 5 para 11(1).

3 As to the Secretary of State see PARA 16 ante.

4 Weights and Measures Act 1985 Sch 5 para 11(2)(a). For these purposes, 'container' means any container in which solid fuel is carried on a vehicle which is used on highways for carrying solid fuel for sale, or for delivery after sale, or is delivered from such a vehicle: Sch 5 para 11(1).

5 Ibid Sch 5 para 11(2)(b).

6 Ibid Sch 5 para 11(2)(c).

7 Ibid Sch 5 para 11(3)(a). The provisions referred to in the text are any of the provisions of Sch 5 paras 1-4, 6-10 (as amended): see PARA 171 et seq ante.

8 Ibid Sch 5 para 11(3)(b).

9 Ie not exceeding the penalties provided by ibid s 84(6): see PARA 229 post.

10 Ibid Sch 5 para 11(3)(c).

11 Ie an order under ibid s 22: see PARA 105 ante.

12 Ibid Sch 5 para 12.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/B. WEIGHING AT BUYER'S REQUEST/181. Weighing of solid fuel at buyer's request.

B. WEIGHING AT BUYER'S REQUEST

181. Weighing of solid fuel at buyer's request.

If, in the case of any solid fuel¹ sold otherwise than by means of a vending machine, the buyer so requests:

703 (1) with respect to any of that fuel the delivery of which has not at the time of the request been completed²; or

704 (2) if the request is made before the departure from the premises³ at which the fuel is delivered of the person delivering it, with respect to any of that fuel the delivery of which has been completed but which is still capable of identification⁴,

the seller must cause the fuel to be weighed by means of suitable weighing equipment in the presence of the buyer and, in the case of any such fuel as is mentioned in head (1) above, before the delivery of that fuel is completed⁵. If these provisions are contravened⁶, the seller is guilty of an offence and liable to a penalty⁷.

Where a request is so made in respect of the whole load of a vehicle, the above requirements are deemed to be satisfied, notwithstanding that the weighing is not done in the presence of the buyer, if the seller causes the vehicle to be check-weighed⁸ and the statements of the weights found by the person or persons attending to the check-weighing to be delivered to the buyer⁹.

Where, after any weighing in pursuance of such a request, the weight of the solid fuel is found to be not less than that marked¹⁰ on any container¹¹ in which the fuel was made up or than that stated by the seller in any document delivered to the buyer at or before the delivery of the fuel to him, the buyer is liable to repay to the seller all costs reasonably incurred by the seller in connection with the weighing¹².

- 1 For the meaning of 'solid fuel' see PARA 171 ante.
- 2 Weights and Measures Act 1985 s 21, Sch 5 para 13(a).
- 3 As to the meaning of 'premises' see PARA 27 note 5 ante.
- 4 Weights and Measures Act 1985 Sch 5 para 13(b).
- 5 Ibid Sch 5 para 13.
- 6 As to the meaning of 'contravene' see PARA 46 note 12 ante.
- 7 Weights and Measures Act 1985 s 84(6), Sch 5 para 13. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 13. As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.
- 8 For the meaning of 'check-weighed' see PARA 31 note 9 ante.
- 9 Weights and Measures Act 1985 Sch 5 para 14.
- 10 As to the meaning of 'mark' see PARA 28 note 10 ante.
- 11 As to the meaning of 'container' see PARA 28 note 8 ante.
- 12 Weights and Measures Act 1985 Sch 5 para 15.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/C. CARRIAGE BY ROAD/182. Carriage of solid fuel by road.

C. CARRIAGE BY ROAD

182. Carriage of solid fuel by road.

The following provisions have effect with respect to the carriage by a road vehicle on a journey any part of which is along a highway of any solid fuel¹ required² to be sold only by net weight³ ('relevant goods')⁴.

If the vehicle is carrying any relevant goods for delivery to a buyer in pursuance of, or of an agreement for, a sale of a quantity exceeding 110 kilograms⁵, then, before the journey begins, there must be delivered to the person in charge of the vehicle a document signed by or on behalf of the seller ('the delivery document') stating⁶:

- 705 (1) the name and address of the seller⁷;
- 706 (2) the name of the buyer and the address of the premises⁸ to which the goods to which the document relates are being delivered⁹;
- 707 (3) the type of those goods¹⁰;

- 708 (4) the aggregate net weight of those goods¹¹; and
 709 (5) where any of those goods are made up in containers¹², the number of those containers¹³ and, except where the whole of the relevant goods carried on the vehicle are for delivery to a single buyer, and except where the whole of the vehicle's load consists of solid fuel supplied under arrangements made in the coal industry¹⁴, the net weight of the goods in each of those containers¹⁵,

and, if this provision is contravened, the seller is guilty of an offence and liable to a penalty¹⁶.

If all or any of the relevant goods on the vehicle are being carried in such circumstances that the above provisions¹⁷ do not apply, then, before the journey begins, there must be delivered to the person in charge of the vehicle a document signed by or on behalf of the person causing the goods to be carried giving the name and address of the last-mentioned person and containing a statement to the effect that all or part of the relevant goods on the vehicle are goods to which the above provisions¹⁸ do not apply, and, if this provision is contravened, the last-mentioned person is guilty of an offence and liable to a penalty¹⁹.

Any document required by the above provisions must at all times during the journey be carried by the person for the time being in charge of the vehicle and must be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and, in the case of any delivery document²⁰, on the unloading of the goods to which the document relates at the premises to which those goods are to be delivered:

- 710 (a) before any of those goods are so unloaded, the document must be handed over to the buyer²¹; or
 711 (b) if the document cannot be so handed over by reason of the absence of the buyer, it must be left at some suitable place at those premises²²,

and, if at any time any of these requirements is contravened without reasonable cause, the person in charge of the vehicle at that time is guilty of an offence and liable to a penalty²³.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 le required by the Weights and Measures Act 1985 s 21, Sch 5 para 2 (as amended): see PARA 172 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 Weights and Measures Act 1985 Sch 5 para 16.

5 For the meaning of 'kilogram' see PARA 44 ante.

6 Weights and Measures Act 1985 Sch 5 para 17(1) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(f)).

The Weights and Measures Act 1985 Sch 5 para 17(1) (as amended) does not apply to any goods which to the knowledge of the seller are to be loaded into a ship before their delivery to the buyer: Sch 5 para 17(6). As to the meaning of 'ship' see PARA 27 note 5 ante.

Where the whole of the vehicle's load consists of relevant goods not made up in containers and is being delivered to the same person at the same premises, the statement referred to in Sch 5 para 17(1)(d) (see head (4) in the text) is not required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the delivery document states that the quantity of the relevant goods is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated: Sch 5 para 17(2). In any case to which Sch 5 para 17(2) applies, the person in charge of the vehicle at the time when the net weight of the relevant goods is determined must forthwith add to the delivery document a statement of that net weight, and, if he fails so to do, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: s 84(6), Sch 5 para 17(3). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

If the vehicle is carrying relevant goods to which Sch 5 para 17(1) (as amended) applies for delivery to each of two or more buyers: (1) Sch 5 para 17(1) (as amended) applies separately in relation to each of those buyers; and (2) the relevant goods for delivery to each of those buyers must be carried on the vehicle made up separately in containers or in separate compartments; and, if head (2) supra is contravened, the seller is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: s 84(6), Sch 5 para 17(4). Schedule 5 para 17(4)(b) (see head (2) supra) does not apply where the vehicle is constructed or adapted for the mechanical making up in containers of the fuel carried thereon and incorporates weighing equipment approved by the Secretary of State for that purpose: Sch 5 para 17(5). As to the Secretary of State see PARA 16 ante.

7 Ibid Sch 5 para 17(1)(a). See note 6 supra.

8 As to the meaning of 'premises' see PARA 27 note 5 ante.

9 Weights and Measures Act 1985 Sch 5 para 17(1)(b). See note 6 supra.

10 Ibid Sch 5 para 17(1)(c). See note 6 supra.

11 Ibid Sch 5 para 17(1)(d). See note 6 supra.

12 As to the meaning of 'container' see PARA 28 note 8 ante.

13 Weights and Measures Act 1985 Sch 5 para 17(1)(e)(i). See note 6 supra.

14 Ie such solid fuel as is mentioned in ibid Sch 5 para 7(a): see PARA 176 head (1) ante.

15 Ibid Sch 5 para 17(1)(e)(ii). See note 6 supra.

16 Ibid s 84(6), Sch 5 para 17(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 17(1). See note 6 supra.

17 Ie ibid Sch 5 para 17(1) (as amended).

18 See note 17 supra.

19 Weights and Measures Act 1985 s 84(6), Sch 5 para 18(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 18(1). Schedule 5 para 18(1) does not apply where the total quantity of the relevant goods carried on the vehicle does not exceed 110 kilograms: Sch 5 para 18(2) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (5)(f)).

20 Ie any document such as is mentioned in the Weights and Measures Act 1985 Sch 5 para 17(1) (as amended).

21 Ibid Sch 5 para 19(a).

22 Ibid Sch 5 para 19(b).

23 Ibid s 84(6), Sch 5 para 19. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 19.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/183. Loading.

D. CARRIAGE BY RAIL

183. Loading.

Where any seller of solid fuel¹ causes that fuel to be loaded into a rail vehicle by way of, or for the purpose of, the delivery of that fuel to, or to a person nominated in that behalf by, the buyer, and the fuel is not carried on the vehicle made up in containers², then, except where at the time of loading it is known to the seller that, before the fuel is delivered to the consignee, it is to be loaded into a ship³, the following provisions⁴ apply in relation to that vehicle⁵.

The vehicle must not⁶ be loaded until its tare weight has been determined or redetermined by means of suitable weighing equipment at the place of loading⁷; and, if that requirement is contravened⁸, the seller is guilty of an offence and liable to a penalty⁹. That provision does not, however, apply to any rail vehicle which forms part of, or is intended to form part of, a train conveying only fuel destined for a particular generating station, gas works or other industrial undertaking if:

- 712 (1) the vehicle is loaded by equipment which weighs the fuel and discharges it directly into the vehicle¹⁰; or
- 713 (2) the buyer has agreed with the seller that the weight of the load is to be ascertained at the vehicle's destination¹¹; or
- 714 (3) the buyer has agreed to accept as the tare weight of the vehicle a tare weight ascertained not more than three months before the time of loading and the vehicle has marked upon it in durable lettering a statement of the weight so ascertained and of the date and place at which it was ascertained¹²; or
- 715 (4) all the vehicles comprised in the train are coupled together in such a manner that they may be weighed while in motion by equipment designed to determine the total weight of the train, and the buyer has agreed with the seller that the total net weight of fuel carried in the train is to be ascertained by deducting the total weight of the train so determined before loading from the total weight thereof so determined when loaded¹³.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 As to the meaning of 'ship' see PARA 27 note 5 ante.

4 I.e. the Weights and Measures Act 1985 s 21, Sch 5 paras 21-25 (as amended): see the text to notes 6-13 infra. See also PARAS 184-186 post.

5 Ibid Sch 5 para 20. The re-enactment in Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).

6 I.e. subject to ibid Sch 5 paras 22, 28 (as amended).

7 Ibid Sch 5 para 21. If any seller of solid fuel who uses any place for causing solid fuel to be loaded as mentioned in Sch 5 para 20 (see the text to note 5 supra) makes representations to the Secretary of State that the provision at that place of weighing equipment suitable for determining the tare weight of rail vehicles is not reasonably practicable or would be unjustified on economic grounds and the Secretary of State is satisfied that there are grounds for those representations, the Secretary of State may direct that, subject to such conditions and for such period as may be specified in the direction, Sch 5 para 21 is not to apply to any vehicle loaded at that place: Sch 5 para 28(2) (amended by the Coal Industry Act 1994 s 67(1), (8), Sch 9 para 34(b), Sch 11 Pt II). As to the Secretary of State see PARA 16 ante.

8 As to the meaning of 'contravene' see PARA 46 note 12 ante.

9 Weights and Measures Act 1985 s 84(6), Sch 5 para 27(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 27(1). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

10 Ibid Sch 5 para 22(1)(a).

11 Ibid Sch 5 para 22(1)(b).

12 Ibid Sch 5 para 22(1)(c). Nothing in Sch 5 para 22(1)(c) affords any exemption from the requirements of Sch 5 para 21 (see the text and notes 6, 7 supra) in the case of a vehicle which has undergone repairs or modification or has suffered substantial damage since its tare weight was last ascertained and marked as mentioned therein: Sch 5 para 22(2).

13 Ibid Sch 5 para 22(1)(d).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/184. Completion of loading.

184. Completion of loading.

As soon as the loading has been completed and the seller has ascertained the weight of the vehicle with its load and the identity of the consignee, the seller must¹ cause to be attached to the vehicle a document stating²:

- 716 (1) the name of the seller and the place and date of weighing³;
- 717 (2) the name of the consignee and the destination of the vehicle⁴;
- 718 (3) sufficient particulars to identify the vehicle⁵;
- 719 (4) the tare weight of the vehicle as determined or redetermined⁶ or, if the provisions relating to loading⁷ do not apply⁸ to the vehicle, the tare weight of the vehicle expressed to be as estimated by the seller⁹;
- 720 (5) the weight attributed to the solid fuel¹⁰ in the vehicle by the seller for the purpose of calculating its purchase price¹¹; and
- 721 (6) the type of that fuel¹².

The above provisions do not apply if, at the time of departure of the vehicle from the place of loading, the seller causes to be transmitted to the buyer, for receipt not later than the time of arrival of the vehicle at the buyer's premises, the information required by heads (1) to (6) above, provided that, where such information is transmitted otherwise than in a legible form:

- 722 (a) the seller and the buyer have agreed in writing that the information may be so transmitted¹³;
- 723 (b) the places of loading and destination of the vehicle are suitably equipped for the transmission and receipt of information in such form¹⁴; and

724 (c) the information is capable of being reproduced in a permanent legible form by the system effecting the transmission, and is so reproduced if required by an inspector¹⁵, subject to the production, if so requested, of his credentials¹⁶.

If the above provisions are contravened¹⁷, the seller is guilty of an offence and liable to a penalty¹⁸.

1 le subject to the Weights and Measures Act 1985 s 21, Sch 5 para 22(2) (see PARA 183 note 12 ante) and Sch 5 para 24 (see PARA 185 post).

2 Ibid Sch 5 para 23(1) (amended by the Weights and Measures (Carriage of Solid Fuel by Rail) Order 1987, SI 1987/216, art 2(a)). The re-enactment in the Weights and Measures Act 1985 Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).

3 Ibid Sch 5 para 23(1)(a).

4 Ibid Sch 5 para 23(1)(b).

5 Ibid Sch 5 para 23(1)(c).

6 le in pursuance of ibid Sch 5 para 21: see PARA 183 ante.

7 le ibid Sch 5 para 21.

8 le by virtue of ibid Sch 5 para 28 (as amended): see PARA 183 note 7 ante.

9 Ibid Sch 5 para 23(1)(d).

10 For the meaning of 'solid fuel' see PARA 171 ante.

11 Weights and Measures Act 1985 Sch 5 para 23(1)(e).

12 Ibid Sch 5 para 23(1)(f).

13 Ibid Sch 5 para 23(2)(a) (Sch 5 para 23(2) added by the Weights and Measures (Carriage of Solid Fuel by Rail) Order 1987, SI 1987/216, art 2(b)).

14 Weights and Measures Act 1985 Sch 5 para 23(2)(b) (as added: see note 13 supra).

15 For the meaning of 'inspector' see PARA 22 note 7 ante.

16 Weights and Measures Act 1985 Sch 5 para 23(2)(c) (as added: see note 13 supra). For the meaning of 'credentials' see PARA 27 note 1 ante.

17 As to the meaning of 'contravene' see PARA 46 note 12 ante.

18 Weights and Measures Act 1985 s 84(6), Sch 5 para 27(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 27(1). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/185. Train bills.

185. Train bills.

The provisions relating to the procedure after loading¹ do not apply to any vehicle forming part or intended to form part of any train conveying only fuel destined for a particular generating station, gas works or other industrial undertaking², but the seller must:

- 725 (1) before the departure of the train which includes that vehicle deliver to the authority responsible for railway traffic at the place of loading for carriage on that train a document ('a train bill') giving the information specified in heads (i) to (x) below or, in the case of a train in which all the vehicles are coupled together in such a manner that they may be weighed while in motion by equipment designed to determine the total weight of the train³, the information specified in heads (A) to (F) below⁴; or
- 726 (2) at the time of departure of the train which includes that vehicle transmit to the buyer, for receipt not later than the time of arrival of the train at the buyer's premises, the information required by heads (i) to (x) below or, as the case may be, heads (A) to (F) below⁵,

provided that, where such information is transmitted otherwise than in a legible form:

- 727 (a) the seller and buyer have agreed in writing that the information may be so transmitted⁶;
- 728 (b) the places of loading and destination of the train are suitably equipped for the transmission and receipt of information in such form⁷; and
- 729 (c) the information is capable of being reproduced in a permanent, legible form by the system effecting the transmission, and is so reproduced if required by an inspector⁸, subject to the production, if so requested, of his credentials⁹.

If the above requirements are contravened¹⁰, the seller is guilty of an offence and liable to a penalty¹¹.

The train bill must contain¹² the following information:

- 730 (i) the names of the seller and of the consignee and the destination of the train¹³;
- 731 (ii) sufficient particulars to identify each vehicle in the train¹⁴;
- 732 (iii) the date and place of loading of each vehicle¹⁵;
- 733 (iv) a statement of the type of fuel in each vehicle¹⁶;
- 734 (v) except in the case of fuel which a buyer has agreed shall be weighed at the train's destination, the weight attributed by the seller to the fuel in each vehicle for the purpose of calculating its purchase price¹⁷;
- 735 (vi) where any vehicle is not exempted from the provisions relating to the procedure after loading¹⁸, the tare weight of that vehicle¹⁹;
- 736 (vii) where any vehicle has been loaded by equipment which weighs fuel and discharges it directly into vehicles, a statement as to the vehicle which has been so loaded²⁰;

- 737 (viii) where any vehicle is loaded with fuel the weight of which is to be ascertained at the train's destination, a statement as to the vehicle so loaded²¹;
- 738 (ix) where any vehicle is exempted from the provisions relating to the procedure after loading²², a statement of the tare weight and related particulars marked upon that vehicle²³; and
- 739 (x) where any vehicle is so exempt by reason of any direction given by the Secretary of State²⁴, a weight stated to be the seller's estimate of the tare weight of that vehicle²⁵.

In the case of a train in which all the vehicles are coupled together in such a manner that they may be weighed while in motion by equipment designed to determine the total weight of the train²⁶, the train bill must contain the following information:

- 740 (A) the name of the seller and the consignee and the destination of the train²⁷;
- 741 (B) the date and place of loading of the train²⁸;
- 742 (C) the number of vehicles in the train²⁹;
- 743 (D) the total net weight of fuel carried in the train³⁰;
- 744 (E) a statement of the type of fuel carried in the train³¹; and
- 745 (F) a statement that the buyer has agreed that the total net weight of fuel carried in the train shall be ascertained in the prescribed manner³².

- 1 Ie the Weights and Measures Act 1985 s 21, Sch 5 para 23 (as amended): see PARA 184 ante.
- 2 Ie any such train as is mentioned in ibid Sch 5 para 22: see PARA 183 ante.
- 3 Ie any such train as is mentioned in ibid Sch 5 para 22(1)(d): see PARA 183 head (4) ante.
- 4 Ibid Sch 5 para 24(1)(a) (Sch 5 para 24(1) amended by the Weights and Measures (Carriage of Solid Fuel by Rail) Order 1987, SI 1987/216, art 3). The re-enactment in the Weights and Measures Act 1985 s 84(3) (see PARA 229 post) and Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).
- 5 Ibid Sch 5 para 24(1)(b) (as amended: see note 4 supra).
- 6 Ibid Sch 5 para 24(1) proviso (a) (as amended: see note 4 supra).
- 7 Ibid Sch 5 para 24(1) proviso (b) (as amended: see note 4 supra).
- 8 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.
- 9 Weights and Measures Act 1985 Sch 5 para 24(1) proviso (c) (as amended: see note 4 supra). For the meaning of 'credentials' see PARA 27 note 1 ante.
- 10 As to the meaning of 'contravene' see PARA 46 note 12 ante.
- 11 Weights and Measures Act 1985 s 84(3), Sch 5 para 24(4). The penalty on summary conviction is a fine not exceeding £2,000: see s 84(3), Sch 5 para 24(4). As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.
- 12 Ie except in a case to which ibid Sch 5 para 24(3) applies: see the text to notes 26-32 infra.
- 13 Ibid Sch 5 para 24(2)(a).
- 14 Ibid Sch 5 para 24(2)(b).
- 15 Ibid Sch 5 para 24(2)(c).

- 16 Ibid Sch 5 para 24(2)(d).
- 17 Ibid Sch 5 para 24(2)(e).
- 18 Ie ibid Sch 5 para 21: see PARA 183 ante.
- 19 Ibid Sch 5 para 24(2)(f).
- 20 Ibid Sch 5 para 24(2)(g).
- 21 Ibid Sch 5 para 24(2)(h).
- 22 Ie by virtue of ibid Sch 5 para 22(1)(c): see PARA 183 head (3) ante.
- 23 Ibid Sch 5 para 24(2)(i).
- 24 Ie under ibid Sch 5 para 28 (as amended): see PARA 183 note 7 ante. As to the Secretary of State see PARA 16 ante.
- 25 Ibid Sch 5 para 24(2)(j).
- 26 See note 3 supra.
- 27 Weights and Measures Act 1985 Sch 5 para 24(3)(a).
- 28 Ibid Sch 5 para 24(3)(b).
- 29 Ibid Sch 5 para 24(3)(c).
- 30 Ibid Sch 5 para 24(3)(d).
- 31 Ibid Sch 5 para 24(3)(e).
- 32 Ibid Sch 5 para 24(3)(f). The manner prescribed is that mentioned in Sch 5 para 22(1)(d) (see PARA 183 head (4) ante): Sch 5 para 24(3).

UPDATE

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Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/186. Arrival at destination.

186. Arrival at destination.

The following provisions apply:

- 746 (1) in a case where¹ a train bill is carried, when the train reaches its destination²;
and
- 747 (2) in any other case, when the vehicle in question reaches its destination³.

The authority responsible for railway traffic at the destination of the train or vehicle, as the case may be, must:

- 748 (a) permit the consignee and, subject to the production if so requested of his credentials⁴, any inspector⁵ to inspect the document required to be carried⁶;
- 749 (b) permit the consignee either to take possession of that document after the train or vehicle is unloaded or to make a copy of the particulars stated therein⁷; and
- 750 (c) if so requested by the consignee with respect to any such copy which the authority is satisfied is accurate, certify the accuracy thereof⁸,

and, if any of the provisions of heads (a) to (c) above is contravened⁹, the authority is guilty of an offence and liable to a penalty¹⁰.

Any of the following persons, that is to say:

- 751 (i) any inspector, subject to the production if so requested of his credentials¹¹ or
- 752 (ii) the consignee, subject to his undertaking to pay any cost reasonably incurred¹²,

may require the vehicle to be weighed either before or after or both before and after it is unloaded, and the vehicle must be weighed accordingly unless it is certified¹³ that in the circumstances of the particular case the carrying out of the weighing would cause undue dislocation of railway traffic at the vehicle's destination; and any inspector who is present at any such weighing must, if so requested, certify the weight found¹⁴.

If, when the fuel is unloaded from the vehicle, it is weighed accurately with accurate weighing equipment in the presence of an inspector, the inspector must, if so requested, certify that it was so weighed and state in his certificate the weight found¹⁵.

1 le by virtue of the Weights and Measures Act 1985 s 21, Sch 5 para 24 (as amended): see PARA 185 ante.

2 Ibid Sch 5 para 25(1)(a).

3 Ibid Sch 5 para 25(1)(b).

4 For the meaning of 'credentials' see PARA 27 note 1 ante.

5 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

6 Weights and Measures Act 1985 Sch 5 para 25(2)(a). The document referred to in the text is the document required by Sch 5 para 23 (as amended) (see PARA 184 ante) or, as the case may be, Sch 5 para 24 (as amended) (see PARA 185 ante).

7 Ibid Sch 5 para 25(2)(b).

8 Ibid Sch 5 para 25(2)(c).

9 As to the meaning of 'contravene' see PARA 46 note 12 ante.

10 Weights and Measures Act 1985 s 84(6), Sch 5 para 25(2). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 25(2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. The re-enactment in Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).

11 Ibid Sch 5 para 25(3)(a).

12 Ibid Sch 5 para 25(3)(b).

13 Ie by or on behalf of the authority mentioned in ibid Sch 5 para 25(2): see the text to notes 4-10 supra.

14 Ibid Sch 5 para 25(3). Where, by virtue of Sch 5 para 24 (as amended), a train bill is carried and the buyer has agreed that the weight of the fuel in any vehicle is to be ascertained at the train's destination, Sch 5 para 25(3) does not apply in relation to that vehicle: Sch 5 para 25(5). In a case falling within Sch 5 para 22(1)(d) (see PARA 183 head (4) ante), Sch 5 para 25(3) has effect: (1) with the omission of Sch 5 para 25(3)(b) (see head (ii) in the text); and (2) as if any reference to a vehicle were a reference to a train: Sch 5 para 25(6).

15 Ibid Sch 5 para 25(4).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/187. Solid fuel not made up in containers.

187. Solid fuel not made up in containers.

Where, in the case of any rail vehicle used on a journey to carry solid fuel¹ which is not made up in containers², the provisions relating to determination of a vehicle's tare weight and the documents to be provided and inspected on arrival³ do not apply, the consignor must cause to be attached to the vehicle before it starts on the journey a document stating the name of the consignor and the place of loading of the vehicle⁴.

If the above provisions are contravened, the consignor is guilty of an offence and liable to a penalty⁵.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 As to the meaning of 'container' see PARA 28 note 8 ante.

3 Ie the provisions of the Weights and Measures Act 1985 s 21, Sch 5 paras 21-25 (as amended): see PARAS 183-186 ante.

4 Ibid Sch 5 para 26. The re-enactment in Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).

5 Ibid s 84(6), Sch 5 para 27(2). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 27(2). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(iv) Solid Fuel/D. CARRIAGE BY RAIL/188. Offences connected with documents to be provided.

188. Offences connected with documents to be provided.

If, in the case of any rail vehicle used on a journey to carry solid fuel¹:

- 753 (1) the authority responsible for railway traffic at the place of loading or any person employed by that authority wilfully prevents or impedes the attachment to the vehicle of the document required to be provided²; or
- 754 (2) any person, being a person concerned in the sale, carriage or delivery of that fuel, wilfully removes, defaces or alters any such document attached to the vehicle³,

that authority or person is guilty of an offence and liable to a penalty⁴.

1 For the meaning of 'solid fuel' see PARA 171 ante.

2 Weights and Measures Act 1985 s 21, Sch 5 para 27(3)(a). The document is required to be provided by Sch 5 para 23 (as amended) (see PARA 184 ante) or Sch 5 para 26 (see PARA 187 ante).

3 Ibid Sch 5 para 27(3)(b).

4 Ibid s 84(6), Sch 5 para 27(3). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 5 para 27(3). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post. The re-enactment in Sch 5 Pt IV (paras 20-28) (as amended) of provisions contained in the Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, SI 1966/238 (revoked) is without prejudice to the validity of those provisions; and any question as to the validity of those provisions is to be determined as if the re-enacting provision of the Weights and Measures Act 1985 were contained in a statutory instrument made under the powers under which the original provision was made: s 96(2)(a).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/189. Aerosol dispensers.

(v) Miscellaneous Goods

189. Aerosol dispensers.

Aerosol dispensers¹ must be marked in visible, legible and indelible characters, in the English language, unless there is reason to believe that the dispenser will not be used in the United Kingdom², with the net contents by weight and by volume expressed in metric units³.

1 'Aerosol dispenser' means any non-reusable container made of metal, glass or plastic and containing a gas compressed, liquefied or dissolved under pressure, with or without a liquid, paste or powder, and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state: Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140, reg 2(1).

2 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

3 Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140, reg 3(1)(c). However, so far as they apply to aerosol dispensers containing products to which EC Council Directive 80/232 (OJ L51, 25.2.80, p 1) on the ranges of nominal quantities and nominal capacities permitted for certain pre-packed goods (as amended) (see PARA 5 ante) apply, the Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140 (as amended) have effect as if in the Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140, reg 3(1)(c) the words 'by weight' were omitted: Aerosol Dispensers (EEC Requirements) (Amendment) Regulations 1981, SI 1981/1549, reg 2.

The Weights and Measures Act 1985 does not, in so far as it relates to the marking of quantity on containers, apply to aerosol dispensers which are marked with the reversed epsilon: Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140, reg 2(3). 'The reversed epsilon' means the symbol '3': reg 2(1).

The Aerosol Dispensers (EEC Requirements) Regulations 1977, SI 1977/1140 (as amended) implement EC Council Directive 75/324 (OJ L147, 9.6.75, p 40) on aerosol dispensers (as amended): see PARA 5 ante.

See also the Weights and Measures Act 1985 s 21, Sch 7 para 2; and PARA 204 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

189 Aerosol dispensers

TEXT AND NOTES--Omitted. SI 1977/1140 replaced: see now Aerosol Dispensers Regulations 2009, SI 2009/2824.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/190. Agricultural liming materials, agricultural salt and inorganic fertilisers.

190. Agricultural liming materials, agricultural salt and inorganic fertilisers.

Goods consisting of:

- 755 (1) agricultural liming materials, other than calcareous sand¹;
- 756 (2) agricultural salt²;

- 757 (3) and any mixture consisting mainly of, inorganic fertilisers, other than such fertilisers or such a mixture made up into pellets³ or other articles for use as individual items⁴; and
 758 (4) any mixture of any of the above⁵,

which are not pre-packed⁶, other than liquid fertilisers, must be sold only by quantity, being:

- 759 (a) quantity by net weight⁷; or
 760 (b) if the goods are sold in a container⁸ which does not exceed the permitted weight⁹ and the gross weight of the goods is not less than 25 kilograms, quantity either by net weight or by gross weight¹⁰; or
 761 (c) quantity by volume¹¹.

Such goods must be pre-packed only if the container is marked with an indication of quantity, being:

- 762 (i) in the case of liquid fertilisers, quantity by capacity measurement¹²;
 763 (ii) in any other case, quantity by net weight or, if the container does not exceed the permitted weight and the gross weight of the goods is not less than 25 kilograms, quantity either by net weight or by gross weight¹³.

Any sale of goods with a view to their industrial use¹⁴ is exempted from all the above requirements¹⁵.

1 Weights and Measures Act 1985 s 21, Sch 6 para 8(a). The provisions of Sch 4 paras 4, 5 (see PARA 169 ante) have effect as if any reference therein to ballast included a reference to any goods to which Sch 6 Pt III (paras 8-10) (as amended) applies: Sch 6 para 10.

2 Ibid Sch 6 para 8(b).

3 As to mixtures made up into pellets see PARA 197 post.

4 Weights and Measures Act 1985 Sch 6 para 8(c).

5 Ibid Sch 6 para 8(d).

6 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

7 Weights and Measures Act 1985 Sch 6 para 9(1)(a). For the meaning of 'net weight' see PARA 120 ante.

8 As to the meaning of 'container' see PARA 28 note 8 ante.

9 For these purposes, 'permitted weight' means a weight at the rate of 650 grams per 50 kilograms of the gross weight: Weights and Measures Act 1985 Sch 6 para 9(3) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(c)(ii)). For the meanings of 'gram' and 'kilogram' see PARA 44 ante; and for the meaning of 'gross weight' see PARA 120 ante.

10 Weights and Measures Act 1985 Sch 6 para 9(1)(b) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(c)(i)).

11 Weights and Measures Act 1985 Sch 6 para 9(1)(c).

12 Ibid Sch 6 para 9(2)(a). For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

13 Ibid Sch 6 para 9(2)(b) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(c)).

14 For the meaning of 'industrial use' see PARA 169 note 6 ante.

15 Weights and Measures Act 1985 Sch 6 para 9(4).

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103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/191. Cosmetic products.

191. Cosmetic products.

Cosmetic products¹ must be pre-packed² only if the container³ is marked⁴ with an indication of quantity⁵ either by net weight⁶ or by volume⁷; but the following are exempted from the above requirements:

- 764 (1) cosmetic products in quantities of less than five grams⁸ or five millilitres⁹;
- 765 (2) cosmetic products in sachets or other containers for single use only¹⁰; and
- 766 (3) cosmetic products normally sold as a number of items for which particulars of weight or volume are not significant if the number of items is marked on the package¹¹ or the number of items may readily be seen without opening the package¹² or the items are normally sold only individually¹³.

Cosmetic products which are not pre-packed must be sold only by quantity expressed as net weight, volume or number¹⁴.

1 'Cosmetic product' means any substance or preparation intended to be placed in contact with the various external parts of the human body (that is to say, the epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting bodily odours, protecting them or keeping them in good condition: Weights and Measures Act 1985 s 21, Sch 6 para 15 (substituted by the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884, art 2).

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 As to the meaning of 'mark' see PARA 28 note 10 ante.

5 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

6 For the meaning of 'net weight' see PARA 120 ante.

7 Weights and Measures Act 1985 Sch 6 para 16(1) (Sch 6 substituted by the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884, art 2).

8 For the meaning of 'gram' see PARA 44 ante.

9 Weights and Measures Act 1985 Sch 6 para 16(2)(a) (as substituted: see note 7 supra). For the meaning of 'millilitre' see PARA 42 ante.

10 Ibid Sch 6 para 16(2)(b) (as substituted: see note 7 supra).

- 11 Ibid Sch 6 para 16(2)(c)(i) (as substituted: see note 7 supra).
- 12 Ibid Sch 6 para 16(2)(c)(ii) (as substituted: see note 7 supra).
- 13 Ibid Sch 6 para 16(2)(c)(iii) (as substituted: see note 7 supra).
- 14 Ibid Sch 6 para 16(3) (as substituted: see note 7 supra).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/192. Knitting yarns.

192. Knitting yarns.

Knitting yarns¹ must be pre-packed² only in one of the following quantities³ by net weight in grams, that is to say, 10, 25, 50, 100, 150, 200, 250, 300, 350, 400, 450, 500 or 1,000⁴.

1 'Knitting yarns' means any knitting yarns consisting of natural fibres (animal, vegetable or mineral), chemical fibres, or any mixture of such fibres: Weights and Measures (Knitting Yarns) Order 1988, SI 1988/895, art 1(2).

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 The quantities prescribed are the sum of the anhydrous mass of the yarn and the appropriate recovery factor specified in the Textile Products (Indications of Fibre Content) Regulations 1986, SI 1986/26, reg 7, Sch 1 para 7(3), Sch 3 (as amended): Weights and Measures (Knitting Yarns) Order 1988, SI 1988/895, art 2(2).

4 Ibid art 2(1). Knitting yarn pre-packed in Great Britain or imported pre-packed into Great Britain before 1 January 1990 was exempted from the requirements of art 2(1): art 2(3). The Weights and Measures (Knitting Yarns) Order 1988, SI 1988/895, implements EC Council Directive 87/356 (OJ L192, 11.7.87, p 48) amending EC Council Directive 80/232 on the ranges of nominal quantities and nominal capacities for certain pre-packaged products (see PARA 5 ante). For the meaning of 'Great Britain' see PARA 16 note 11 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

192 Knitting yarns

TEXT AND NOTES--Knitting yarns may no longer be so pre-packed in 10 gram quantities and must only be so pre-packed if not made up in advance ready for retail sale in a securely closed container: SI 1988/895 art 2(1)(b) (art 2(1) substituted by SI

2009/663). If so made up in advance, knitting yarns must be sold only by net weight in grams: SI 1988/895 art 2(1)(a).

NOTE 3--SI 1986/26 Sch 3 substituted: SI 2006/3297.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/193. Liquid fuel and lubricants.

193. Liquid fuel and lubricants.

Liquid fuel, lubricating oil and any mixture of such fuel and oil and lubricating grease¹:

- 767 (1) unless pre-packed², must be sold only by net weight³ or by capacity measurement⁴;
- 768 (2) must be pre-packed only if the container⁵ is marked with an indication of quantity⁶ either by net weight or by capacity measurement⁷; and
- 769 (3) in the case of lubricating oil in a quantity of one litre⁸ or less, must be made up in a container for sale or otherwise than by way of pre-packing only if the container is marked with an indication of quantity by capacity measurement⁹.

Liquid fuel, when not pre-packed, may¹⁰ be sold by volume and may be pre-packed in a container marked with an indication of quantity by volume, being in either case the volume of the gas which would be produced from the fuel in question at such temperature and such atmospheric pressure as are specified in regulations made by the Secretary of State¹¹ with respect to fuel of the type in question or, if no such regulations are in force, as may be made known by the seller to the buyer before he pays for or takes possession of the fuel; and there are exempted from all the above requirements¹² goods of any description in a quantity of less than 250 grams¹³ or of less than 250 millilitres¹⁴.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 1.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 Weights and Measures Act 1985 Sch 6 para 2(a). For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures Act 1985 Sch 6 para 2(b).

8 For the meaning of 'litre' see PARA 43 ante.

9 Weights and Measures Act 1985 Sch 6 para 2(c) (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(a)).

10 Ie notwithstanding anything in the Weights and Measures Act 1985 Sch 6 para 2 (as amended).

11 As to the Secretary of State see PARA 16 ante.

12 Ie the requirements of ibid Sch 6 para 2 (as amended).

13 For the meaning of 'gram' see PARA 44 ante.

14 Weights and Measures Act 1985 Sch 6 para 3 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(b)). For the meaning of 'millilitre' see PARA 43 ante. At the date at which this volume states the law, no regulations had been so made and none have effect as if so made. As to the making of regulations see PARA 3 ante.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/194. Miscellaneous goods to be sold by or marked with length.

194. Miscellaneous goods to be sold by or marked with length.

Goods consisting of any of the following descriptions, that is to say, bias binding, elastic, ribbon, tape and sewing thread¹, must, unless pre-packed², be sold by retail only by length, and must be pre-packed only if the container³ is marked⁴ with an indication of quantity⁵ by length⁶; but goods of any description in a quantity of less than one metre⁷ are exempted from all the above requirements⁸.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 19.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 As to the meaning of 'mark' see PARA 28 note 10 ante.

5 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

6 Weights and Measures Act 1985 Sch 6 para 20.

7 For the meaning of 'metre' see PARA 40 ante.

8 Weights and Measures Act 1985 Sch 6 para 21 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(f)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/195. Miscellaneous goods to be sold by or marked with net weight.

195. Miscellaneous goods to be sold by or marked with net weight.

Goods consisting of:

- 770 (1) distemper¹;
- 771 (2) articles offered as feed for household pets, being manufactured feed or bird feed, other than animal feed in biscuit or cake form pre-packed² in a quantity by number not exceeding 16³;
- 772 (3) nails⁴;
- 773 (4) paste paint⁵;
- 774 (5) seeds, other than pea or bean seeds⁶; and
- 775 (6) rolled oats⁷,

must, unless pre-packed, be sold by retail only by net weight⁸ and must be pre-packed only if the container⁹ is marked¹⁰ with an indication of quantity¹¹ by net weight¹².

Distemper or paste paint in a quantity of less than 250 grams¹³, bird seed in a quantity of less than 125 grams and any other goods in a quantity of less than 25 grams are exempted from the above requirements¹⁴.

Nails, when not pre-packed, may nevertheless be sold by retail by number and may be pre-packed in or on a container marked with an indication of quantity by number¹⁵.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 22(a).

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 See the Weights and Measures Act 1985 Sch 6 para 22(b). As to such items not exceeding a quantity of 16 by number see PARA 197 post.

4 See *ibid* Sch 6 para 22(c).

5 See *ibid* Sch 6 para 22(d).

6 See *ibid* Sch 6 para 22(e). As to pea and bean seeds see PARA 198 post.

7 See *ibid* Sch 6 para 22(f).

8 For the meaning of 'net weight' see PARA 120 ante.

9 As to the meaning of 'container' see PARA 28 note 8 ante.

10 As to the meaning of 'mark' see PARA 28 note 10 ante.

11 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

12 Weights and Measures Act 1985 Sch 6 para 23.

13 For the meaning of 'gram' see PARA 44 ante.

14 Weights and Measures Act 1985 Sch 6 para 24 (substituted by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(g)).

15 Weights and Measures Act 1985 Sch 6 para 25.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/196. Miscellaneous goods to be marked when pre-packed with net weight.

196. Miscellaneous goods to be marked when pre-packed with net weight.

Goods consisting of Portland cement, cleansing powders and scouring powders, detergents (other than liquid detergents¹) and paint remover (other than liquid paint remover)² must be pre-packed³ only if the container⁴ is marked⁵ with an indication of quantity⁶ by net weight⁷; but goods of any description in a quantity of less than 25 grams⁸ are exempted from the above requirements⁹.

1 As to liquid detergents see PARA 199 post.

2 See the Weights and Measures Act 1985 s 21, Sch 6 para 26. As to liquid paint remover see PARA 199 post.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 As to the meaning of 'container' see PARA 28 note 8 ante.

5 As to the meaning of 'mark' see PARA 28 note 10 ante.

6 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

7 Weights and Measures Act 1985 Sch 6 para 27. For the meaning of 'net weight' see PARA 120 ante.

8 For the meaning of 'gram' see PARA 44 ante.

9 Weights and Measures Act 1985 Sch 6 para 28 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(h)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/197. Miscellaneous goods to be marked when pre-packed with quantity by number.

197. Miscellaneous goods to be marked when pre-packed with quantity by number.

Goods consisting of:

- 776 (1) cheroots, cigarettes and cigars¹;
- 777 (2) postal stationery, that is to say, paper or cards for use in correspondence, and envelopes²;
- 778 (3) or of any mixture consisting mainly of, inorganic fertilisers, being such fertilisers or such a mixture made up into pellets or other articles³ for use as individual items⁴; and
- 779 (4) manufactured animal feed in biscuit or cake form pre-packed⁵ in a quantity by number of 16 or less⁶,

must be pre-packed only if the container⁷ is marked⁸ with an indication of quantity⁹ by number¹⁰.

Any goods in a quantity by number of one are exempted from the above requirements¹¹.

It is an offence for any person carrying on a retail business to sell cigarettes¹² to any person other than in pre-packed quantities of ten or more cigarettes in their original package¹³.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 38(a).

2 See *ibid* Sch 6 para 38(b). In relation to postal stationery, the reference to number is to be construed as a reference to the number of sheets of paper, cards or envelopes, as the case may be, in the pad, confining band or other form of container; and postal stationery is exempted from the requirements of Sch 6 para 39 if pre-packed as part of a collection of articles made up for sale together and including any article other than postal stationery and blotting or other paper: Sch 6 para 40.

3 As to inorganic fertilisers and mixtures consisting mainly of such fertilisers which are not so made up see PARA 190 ante.

4 See the Weights and Measures Act 1985 Sch 6 para 38(c).

5 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

6 See the Weights and Measures Act 1985 Sch 6 para 38(d). As to the position where the number exceeds 16 see PARA 195 ante.

7 As to the meaning of 'container' see PARA 28 note 8 ante.

8 As to the meaning of 'mark' see PARA 28 note 10 ante.

9 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

10 Weights and Measures Act 1985 Sch 6 para 39.

11 *Ibid* Sch 6 para 41.

12 For these purposes, 'cigarette' includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking: Children and Young Persons Act 1933 s 7(5).

13 Children and Young Persons (Protection from Tobacco) Act 1991 s 3(1). For these purposes, 'original package' means the package in which the cigarettes were supplied for the purpose of retail sale by the manufacturer or importer; and 'package' means any box, carton or other container: s 3(3). Any person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale: s 3(2). As to the standard scale see PARA 229 note 1 post.

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

197 Miscellaneous goods to be marked when pre-packed with quantity by number

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/198. Miscellaneous goods to be sold by or marked with net weight or capacity measurement.

198. Miscellaneous goods to be sold by or marked with net weight or capacity measurement.

Goods consisting of polishes, dressings analogous to polishes, and pea seeds and bean seeds¹ must, unless pre-packed², be sold by retail only by net weight³ or by capacity measurement⁴ and must be pre-packed only if the container⁵ is marked⁶ with an indication of quantity⁷ either by net weight or by capacity measurement⁸; but pea or bean seeds in a quantity of less than 250 grams⁹ or of less than 250 millilitres¹⁰ and any other goods in a quantity of less than 30 grams or of less than 30 millilitres are exempted from all the above requirements¹¹.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 35. As to other seeds see PARA 195 ante.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 For the meaning of 'net weight' see PARA 120 ante.

4 Weights and Measures Act 1985 Sch 6 para 36(a). For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 As to the meaning of 'mark' see PARA 28 note 10 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures Act 1985 Sch 6 para 36(b).

9 For the meaning of 'gram' see PARA 44 ante.

10 For the meaning of 'millilitre' see PARA 43 ante.

11 Weights and Measures Act 1985 Sch 6 para 37 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(k)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/199. Miscellaneous goods to be marked when pre-packed with capacity measurement.

199. Miscellaneous goods to be marked when pre-packed with capacity measurement.

Goods consisting of enamel, lacquer, liquid detergents, liquid paint remover, petrifying fluid and rust remover¹ must be pre-packed² only if the container³ is marked⁴ with an indication of quantity⁵ by capacity measurement⁶; but liquid detergents in a quantity of less than 125 millilitres⁷ and goods of any other description in a quantity of less than 150 millilitres are exempted from the above requirements⁸.

1 See the Weights and Measures Act 1985 s 21, Sch 6 para 32.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 As to the meaning of 'mark' see PARA 28 note 10 ante.

5 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

6 Weights and Measures Act 1985 Sch 6 para 33. For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

7 For the meaning of 'millilitre' see PARA 43 ante.

8 Weights and Measures Act 1985 Sch 6 para 34 (substituted by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(j)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/200. Miscellaneous goods to be sold by or marked with capacity measurement.

200. Miscellaneous goods to be sold by or marked with capacity measurement.

Goods consisting of antifreeze fluid for internal combustion engines, linseed oil, paint (other than paste paint¹), paint thinner, turpentine, turpentine substitute, varnish, and wood preservative fluid (including fungicides and insecticides)² must, unless pre-packed³, be sold only

by capacity measurement⁴ and must be pre-packed only if the container⁵ is marked⁶ with an indication of quantity⁷ by capacity measurement⁸; but goods of any description in a quantity of less than 150 millilitres⁹ are exempted from all the above requirements¹⁰.

1 As to paste paint see PARA 195 ante.

2 See the Weights and Measures Act 1985 s 21, Sch 6 para 29.

3 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

4 For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

5 As to the meaning of 'container' see PARA 28 note 8 ante.

6 As to the meaning of 'mark' see PARA 28 note 10 ante.

7 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

8 Weights and Measures Act 1985 Sch 6 para 30.

9 For the meaning of 'millilitre' see PARA 43 ante.

10 Weights and Measures Act 1985 Sch 6 para 31 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(i)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/201. Ready-mixed cement mortar and ready-mixed concrete.

201. Ready-mixed cement mortar and ready-mixed concrete.

Any ready-mixed cement mortar or ready-mixed concrete must be sold only by volume in a multiple of 0.1 cubic metre¹; but any goods in a quantity of less than one cubic metre are exempted from that requirement².

1 Weights and Measures Act 1985 s 21, Sch 6 paras 4, 5(1). The provisions of Sch 4 Pt II (paras 6-10) except Sch 4 para 7 (see PARA 170 ante) apply for the purposes of Sch 6 Pt II (paras 4-7) as if: (1) any reference in Sch 4 Pt II (paras 6-10) to ballast included a reference to goods to which Sch 6 Pt II (paras 4-7) applies; and (2) the reference in Sch 4 para 7(1) to Sch 4 para 7(2) were a reference to Sch 6 para 5: Sch 6 para 6. For the meaning of 'cubic metre' see PARA 42 ante.

2 Ibid Sch 6 para 5(2).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

201 Ready-mixed cement mortar and ready-mixed concrete

TEXT AND NOTE 1--Ready-mixed cement mortar or ready-mixed concrete must now only be so sold if not made up in advance ready for retail sale or wholesale in a securely closed container: Weights and Measures Act 1985 Sch 6 para 5(1)(b) (Sch 6 para 5(1) substituted by SI 2009/663). If so made up in advance, ready-mixed cement mortar or ready-mixed concrete must be sold only by volume: Weights and Measures Act 1985 Sch 6 para 5(1)(a).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/202. Soap.

202. Soap.

Soap¹ in the form of a cake, tablet or bar must be pre-packed² only if the container³ is marked⁴ with an indication of quantity⁵ by net weight⁶. Liquid soap must be pre-packed only if the container is marked with an indication of quantity by capacity measurement⁷. Soap in any other form, unless pre-packed, must be sold by retail only by net weight, and must be pre-packed only if the container is marked with an indication of quantity by net weight⁸.

Liquid soap in a quantity of less than 125 millilitres⁹ and soap in any other form in a quantity of less than 25 grams¹⁰ are exempted from the above requirements¹¹.

1 'Soap' does not include any soap which is a cosmetic product as defined in the Weights and Measures Act 1985 s 21, Sch 6 para 15 (as substituted) (see PARA 191 note 1 ante): Sch 6 para 16A (added by the Weights and Measures (Cosmetic Products) Order 1994, SI 1994/1884, art 3).

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 As to the meaning of 'mark' see PARA 28 note 10 ante.

5 For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

6 Weights and Measures Act 1985 Sch 6 para 17(a). For the meaning of 'net weight' see PARA 120 ante.

7 Ibid Sch 6 para 17(b).

8 Ibid Sch 6 para 17(c).

9 For the meaning of 'millilitre' see PARA 43 ante.

10 For the meaning of 'gram' see PARA 44 ante.

11 Weights and Measures Act 1985 Sch 6 para 18 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(e)).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(v) Miscellaneous Goods/203. Wood fuel.

203. Wood fuel.

Wood fuel which is not made up in a container¹ for sale must be sold by retail only by net weight². In the case of a sale by retail of wood fuel made up in a container for sale, the quantity by net weight of the fuel sold must be made known to the buyer before he pays for or takes possession of it³. Any sale of wood fuel in a quantity which does not exceed 7.5 kilograms⁴ or which exceeds 500 kilograms is exempted from the above requirements⁵.

The above provisions do not have effect, however, in any area unless the local weights and measures authority⁶ for that area so directs by byelaw⁷. Not less than one month before making any such byelaw, the local weights and measures authority must give public notice of its intention to make it by advertisement in one or more newspapers circulating in the area to which the byelaw is to apply⁸. The local weights and measures authority by which any byelaw is so made must give notice of the making of the byelaw to the Secretary of State⁹.

1 As to the meaning of 'container' see PARA 28 note 8 ante.

2 Weights and Measures Act 1985 s 21, Sch 6 para 11(a). For the meaning of 'net weight' see PARA 120 ante.

3 Ibid Sch 6 para 11(b).

4 For the meaning of 'kilogram' see PARA 44 ante.

5 Weights and Measures Act 1985 Sch 6 para 13 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (6)(d)). The Weights and Measures Act 1985 s 21, Sch 5 para 9 (making of byelaws: see PARA 178 ante) and Sch 5 para 10 (damping of fuel: see PARA 179 ante) have effect as if any reference therein to solid fuel included a reference to wood fuel: Sch 6 para 14.

6 For the meaning of 'local weights and measures authority' see PARA 20 ante.

7 Weights and Measures Act 1985 Sch 6 para 12(1). In any byelaw made under Sch 6 para 12, references to 1,120, or 224, or 14 pounds are to be construed as references to 500, or 100 or 7.5 kilograms respectively; and where any such byelaw contains a requirement not only to mark a price clearly and legibly but to mark it in figures of at least three inches in height, the reference to three inches is to be construed as a reference to 7.5 centimetres: Units of Measurement Regulations 1994, SI 1994/2867, reg 6(1), (8)(b).

8 Weights and Measures Act 1985 Sch 6 para 12(2).

9 Ibid Sch 6 para 12(3).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/6. TRANSACTIONS IN GOODS/(12) TRANSACTIONS IN PARTICULAR GOODS/(vi) Composite Goods and Collections of Articles/204. Composite goods and collections of articles.

(vi) Composite Goods and Collections of Articles

204. Composite goods and collections of articles.

The following provisions apply to any goods which, not being pre-packed¹, and not themselves being goods:

- 780 (1) required² to be sold, whether on any sale or on a sale of any particular description, only by quantity expressed in a particular manner³; or
- 781 (2) on a sale of which, whether any sale or a sale of any particular description, the quantity of the goods sold expressed in a particular manner is required⁴ to be made known to the buyer at or before a particular time⁵; or
- 782 (3) expressly exempted⁶ from all such requirements as mentioned in head (1) or head (2) above which would otherwise apply to them⁷,

consist of a mixture constituted wholly or mainly of goods of one or more descriptions to which there applies any such requirement made by reference to any of the following (whether exclusively or otherwise), that is to say, weight, capacity measurement⁸ or volume⁹.

Such goods must be sold only by net weight¹⁰ or by capacity measurement or by volume¹¹.

Any goods which, not being aerosol products and not themselves being goods:

- 783 (a) required¹² to be pre-packed only if the container¹³ is marked¹⁴ with an indication of quantity¹⁵; or
- 784 (b) in the case of which when sold pre-packed, whether on any sale or on a sale of any particular description, the quantity of the goods sold expressed in a particular manner is required¹⁶ to be made known to the buyer at or before a particular time¹⁷; or
- 785 (c) expressly exempted¹⁸ from all such requirements as mentioned in head (a) or head (b) above which would otherwise apply to them¹⁹,

consist of a mixture constituted wholly or mainly of goods of one or more descriptions to which there applies any such requirement made by reference to any of the following (whether exclusively or otherwise), that is to say, capacity measurement or volume²⁰, must be pre-packed only if the container is marked with an indication of quantity either by net weight or by capacity measurement or by volume²¹.

Any aerosol product containing any goods required²² to be pre-packed only if the container is marked with an indication of quantity expressed in a particular manner²³ must be pre-packed only if the container is marked with an indication of the quantity by net weight of the entire contents of the container²⁴.

Food of any description in a quantity of less than five grams or of less than five millilitres and goods of any other description in a quantity of less than 25 grams or of less than 25 millilitres is exempted from any of the above requirements²⁵.

Any collection of two or more items which, not itself being required²⁶ to be pre-packed only if the container is marked with particular information or expressly exempted²⁷ from any such requirement which would otherwise apply to it, contains one or more articles to which any such requirement applies²⁸ must be pre-packed only if:

- 786 (i) the container in which the collection is pre-packed is marked with an indication of the quantity of each of any such articles²⁹ contained in it³⁰; or
- 787 (ii) each of any such articles contained in the container is made up in an individual container marked with an indication of quantity³¹,

being in either case the like indication of the quantity of each respectively of those articles as would have been required if that article had itself been pre-packed³².

1 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

2 le by or under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante), except s 21, Sch 7 para 1.

3 Ibid Sch 7 para 1(1)(a).

4 See note 2 supra.

5 Weights and Measures Act 1985 Sch 7 para 1(1)(b).

6 See note 2 supra.

7 Weights and Measures Act 1985 Sch 7 para 1(1)(c).

8 For the meaning of 'capacity measurement' see PARA 117 note 16 ante.

9 Weights and Measures Act 1985 Sch 7 para 1(1).

10 For the meaning of 'net weight' see PARA 120 ante.

11 Weights and Measures Act 1985 Sch 7 para 1(2).

12 le by or under ibid Pt IV (as amended), except Sch 7 para 2.

13 As to the meaning of 'container' see PARA 28 note 8 ante.

14 As to the meaning of 'mark' see PARA 28 note 10 ante.

15 Weights and Measures Act 1985 Sch 7 para 2(1)(a). For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

16 See note 12 supra.

17 Weights and Measures Act 1985 Sch 7 para 2(1)(b).

18 See note 12 supra.

19 Weights and Measures Act 1985 Sch 7 para 2(1)(c).

20 Ibid Sch 7 para 2(1).

21 Ibid Sch 7 para 2(2).

22 le by or under ibid Pt IV (as amended), except Sch 7 para 3.

23 See ibid Sch 7 para 3(1).

24 Ibid Sch 7 para 3(2). As to aerosol dispensers see PARA 189 ante.

25 Ibid Sch 7 para 5 (amended by the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994, SI 1994/2866, art 3(1), (7)).

26 Ie by or under the Weights and Measures Act 1985 Pt IV (as amended), except Sch 7 para 4.

27 See note 26 supra.

28 See the Weights and Measures Act 1985 Sch 7 para 4(1).

29 Ie any such articles as are mentioned in ibid Sch 7 para 4(1) (see the text and notes 26-28 supra).

30 Ibid Sch 7 para 4(2)(a).

31 Ibid Sch 7 para 4(2)(b).

32 Ibid Sch 7 para 4(2).

UPDATE

103-204 Transactions in Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

204 Composite goods and collections of articles

TEXT AND NOTE 24--Such aerosol products must now be pre-packed only if the container is marked with an indication of (1) the total capacity of the container (indicated in such a way as to avoid giving a false impression of the quantity of goods in the container); and (2) the quantity by net volume of the entire contents of the container: Weights and Measures Act 1985 Sch 7 para 3(2) (amended by SI 2009/663).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(1) IN GENERAL/205. Application of the statutory provisions.

7. PACKAGED GOODS

(1) IN GENERAL

205. Application of the statutory provisions.

Member states of the European Community were required¹ to introduce the 'average quantity system' of quantity control for certain pre-packed goods.

Part V of the Weights and Measures Act 1985² implemented that requirement but does not apply to:

788 (1) catchweight packages³, that is to say, packages not made up in a predetermined quantity⁴;

789 (2) packages containing goods⁵ of any description in a case where the packages are made up in a predetermined constant quantity⁶ of less than five grams⁷ or five millilitres⁸;

- 790 (3) packages marked with the EEC mark⁹ containing goods of any description where:
- 13
15. (a) in a case other than that mentioned in head (3)(b) below, the packages are made up in a predetermined constant quantity which exceeds the relevant limit¹⁰; and
16. (b) in the case of packages in relation to which an upper limit of predetermined constant quantity is specified¹¹, being a limit which is higher than the relevant limit, the packages are made up in a predetermined constant quantity which exceeds that upper limit¹²;
- 14
- 791 (4) packages containing paint which consist of a mixture of base paint and of a quantity of colouring agent in the case where the package is made up by the addition of the colouring agent into a package of the base paint by a person other than the person who made up the last-mentioned package¹³;
- 792 (5) packages which are not intended, and would not normally be regarded, as appropriate for sale to an ultimate consumer as separate items, containing goods being class A packages¹⁴ in a case where the goods are made up as separate items, none of which is separately made up in a container but each of which:
- 15
17. (a) is made up in a quantity such as not to equal or exceed that specified for such a class A package as the lower limit of predetermined constant quantity in relation to the goods in question when made up in packages¹⁵; and
18. (b) is intended, and would normally be regarded as appropriate, for sale as mentioned above¹⁶;
- 16
- 793 (6) packages containing alcoholic beverages when made up in bottles where the beverage has an alcoholic strength by volume of more than 1.2 per cent and the packages were made up before, but not imported until on or after, 1 January 1980¹⁷;
- 794 (7) packages not marked with the EEC mark containing goods of which the only use intended by the packer¹⁸ or the importer¹⁹ of the packages is that the goods shall either be subjected to a process or treatment in the course of a trade or business or be used in connection with any such process or treatment to which other goods are to be subjected²⁰; and
- 795 (8) packages not marked with the EEC mark, being packages:
- 17
19. (a) intended for dispatch to a destination outside Great Britain²¹ and any designated country²²;
20. (b) intended for use by Her Majesty's forces or by a visiting force²³;
21. (c) or intended for use as stores²⁴ in a ship²⁵, aircraft or hovercraft on a voyage or flight to an eventual destination outside Great Britain and any such designated country²⁶.
- 18

1 See EC Council Directive 75/106 (OJ L42, 15.2.75, p 1) on the making up by volume of certain pre-packaged goods (as amended) and EC Council Directive 76/211 (OJ L46, 21.2.76, p 1) on the making up by weight or by volume of certain pre-package products (as amended). See PARA 5 ante.

2 Ie the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): see PARA 206 et seq post.

3 For the meaning of 'package' see PARA 207 post.

4 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(a).

5 'Goods', in relation to a package, excludes the container included in the package: Weights and Measures Act 1985 s 68(1). 'Container' includes any wrapping: s 68(1). The normal definition of 'container' (see PARA 28 note 8 ante) does not apply for the purposes of Pt V (as amended): s 94(1).

6 References to a predetermined constant quantity apply in relation to packages in the case where a group of relevant packages containing the same goods is made up in circumstances where, before the goods are placed in the packages, the packer has selected a particular quantity, being the same quantity for all packages in the group, as the quantity of goods which he intends the packages to be treated as containing: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 2(3).

7 For the meaning of 'gram' see PARA 44 ante.

8 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(b). For the meaning of 'millilitre' see PARA 43 ante.

9 For the meaning of 'EEC mark' see PARA 212 note 5 post.

10 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(c)(i). For these purposes, 'the relevant limit' is that one of the limits of the quantity secondly specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 6(a) or (b) as applies in relation to the packages in question according to the case mentioned in reg 6(a) or (b) (see PARA 212 note 3 post): reg 5(1)(c).

11 Ie specified in ibid reg 5(1)(c), Sch 1 Pt I col 3 or Sch 1 Pt II col 3.

12 Ibid reg 5(1)(c)(ii).

13 Ibid reg 5(1)(d), Sch 2 para 1.

14 For the meaning of 'class A package' see PARA 208 post.

15 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(d), Sch 2 para 2(a).

16 Ibid reg 5(1)(d), Sch 2 para 2(b).

17 Ibid reg 5(1)(d), Sch 2 para 3.

18 'Packer', in relation to a package, means the person who placed in the container included in the package the goods included in it: Weights and Measures Act 1985 s 68(1).

19 'Importer', in relation to a package, means, subject to ibid s 54(3) (see PARA 212 post), the person by whom or on whose behalf the package is entered for customs purposes on importation: s 68(1).

20 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(e).

21 For the meaning of 'Great Britain' see PARA 16 note 11 ante.

22 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(f)(i). For the meaning of 'designated country' see PARA 66 note 6 ante.

23 Ibid reg 5(1)(f)(ii). The reference in the text is a reference to a visiting force within the meaning of any of the provisions of the Visiting Forces Act 1952 Pt I (ss 1-12) (as amended): see ARMED FORCES vol 2(2) (Reissue) PARA 135 et seq.

24 Ie within the meaning of the Customs and Excise Management Act 1979: see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 413.

25 As to the meaning of 'ship' see PARA 27 note 5 ante.

26 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1)(f)(iii).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205 Application of the statutory provisions

TEXT AND NOTES--Replaced.

Subject as follows, the following provisions apply to packages¹ intended for sale in constant unit nominal quantities², which are equal to values predetermined by the packer³, expressed in units of weight or volume and of not less than 5 grams or 5 millilitres and not more than 25 kilograms or 25 litres, and outer containers⁴. These provisions also apply to bread⁵ which is sold either unwrapped or in open packets if it has been made up to a pre-determined constant quantity and it is intended for sale in constant unit nominal quantities expressed in units of weight, which are not less than 300 grams per loaf and not more than 10 kilograms per loaf⁶. These provisions do not apply to packages which are not marked with the E-mark⁷ and which (1) contain a product which is intended solely for use in, or in connection with, a process or treatment in the course of a trade or business; (2) contain a product which is intended, and which would normally be regarded as appropriate, for sale to an ultimate consumer, and made up in quantities of less than 5 grams or 5 millilitres, where the packages are not intended, or would not normally be regarded as appropriate, for sale to an ultimate consumer; (3) contain a single application of a cosmetic product⁸; (4) are intended for despatch outside the United Kingdom; (5) are intended for use by Her Majesty's forces or by a visiting force within the meaning of specified provisions⁹; (6) are intended for use as stores¹⁰ in a ship, aircraft or hovercraft on a voyage or flight to an eventual destination outside Great Britain; or (7) contain a specified product¹¹ in a quantity less than the predetermined constant quantity there shown against that product¹². These provisions do not apply to a package of frozen or quick frozen poultry meat which is classified by weight category in accordance with specified provisions¹³ or a package containing a specified product¹⁴.

1 For the meaning of 'package' see PARA 207.

2 For the meaning of 'nominal quantity' see PARA 209.

3 'Packer' means the person who placed the product in the package or the packages in the outer container; 'outer container' means a container which contains two or more items, at least one of which is a package to which the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659 apply, provided that (1) the items were placed in the container without the purchaser being present; (2) the items cannot be removed from the container without the container being opened or undergoing a perceptible modification; and (3) the container is intended, or would normally be regarded as appropriate, for sale to an ultimate consumer as the outermost layer of packaging: reg 2.

- 4 Ibid reg 3(1).
- 5 'Bread' means bread in the form of single loaves, whether or not sliced: ibid reg 2.
- 6 Ibid reg 3(2). Schedule 5 sets out modifications in the application of SI 2006/659 to bread: reg 3(3).
- 7 For the meaning of 'E-mark' see PARA 212.
- 8 'Cosmetic product' has the meaning given by the Cosmetic Products (Safety) Regulations 2008, SI 2008/1284, reg 3 (see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARAS 587--593).
- 9 Ie the Visiting Forces Act 1952 Pt I (ss 1-12): see ARMED FORCES vol 2(2) (Reissue) PARAS 66, 137, 138, 140-149.
- 10 Ie within the meaning of the Customs and Excise Management Act 1979: see CUSTOMS AND EXCISE vol 12(2) (2007 Reissue) PARA 413.
- 11 Ie one listed in SI 2006/659 Sch 6.
- 12 Ibid reg 3(4).
- 13 Ie EEC Council Regulation 1906/90 art 3(3): see FOOD vol 18(2) (Reissue) PARAS 300, 438.
- 14 SI 2006/659 reg 3(6), which refers to products listed in EC Council Regulation 2200/96 Annex I.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(1) IN GENERAL/206. Power to modify statutory provisions.

206. Power to modify statutory provisions.

Regulations¹ may provide:

- 796 (1) that in relation to packages² of a prescribed³ kind the provisions relating to packaged goods⁴, except this provision, are to have effect with prescribed modifications⁵;
- 797 (2) for such provisions to apply, with prescribed modifications, to goods of a prescribed kind which are not comprised in packages⁶.

Any power to make regulations conferred by the provisions relating to packaged goods includes power⁷:

- 798 (a) to make provision relating only to specified circumstances⁸;
- 799 (b) to make provision by reference to documents which do not form part of the regulations⁹; and
- 800 (c) to include in the regulations such supplemental and incidental provisions as the Secretary of State considers appropriate¹⁰.

1 'Regulations' means regulations made by the Secretary of State by virtue of the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): s 68(1). As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'package' see PARA 207 post.

3 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante.

4 Ie ibid Pt V (as amended). As to the meaning of 'goods' see PARA 205 note 5 ante.

5 Ibid s 65(a). 'Modifications' includes additions, omissions and alterations: ibid s 68(1).

The following provisions of the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) have effect under the Weights and Measures Act 1985 s 65:

- 5 (1) the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(1) and Sch 2, which provide that the Weights and Measures Act 1985 Pt V (as amended) is not to have effect in relation to packages of specified kinds (see PARA 205 ante);
- 6 (2) the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(2)(a) and Sch 3 Pt I (as amended), which provide that, subject to reg 5(1), (3), the Weights and Measures Act 1985 Pt V (as amended) and the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) are to have effect in relation to class A packages of specified kinds with modifications set out therein (see PARA 208 note 6 post);
- 7 (3) reg 5(2)(b) and Sch 3 Pt II, which provide that, subject to reg 5(1), (3), the Weights and Measures Act 1985 Pt V (as amended) is to have effect in relation to class B packages with modifications set out in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) (see PARA 208 note 6 post);
- 8 (4) reg 26 and Sch 6 Pt II (as amended), which provide that, in relation to specified descriptions of packages of desiccating goods, the Weights and Measures Act 1985 Pt V (as amended) is to have effect subject to modifications set out in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended);
- 9 (5) reg 27 and Sch 7 (as amended), which provide that the Weights and Measures Act 1985 Pt V (as amended) and the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended), are to apply with specified modifications in relation to bread, knitting yarns and rug yarn made up otherwise than in packages.

As to class A and class B packages see PARA 208 post. As to the making of regulations see PARA 3 ante.

6 Weights and Measures Act 1985 s 65(b). See note 5 supra.

7 le without prejudice to ibid s 86(1): see PARA 3 ante.

8 Ibid s 66(a).

9 Ibid s 66(b).

10 Ibid s 66(c).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(1) IN GENERAL/207. Meaning of 'package'.

207. Meaning of 'package'.

'Package' means¹ a container² containing prescribed goods³ together with the goods in the container in a case where:

- 801 (1) the goods are placed for sale in the container otherwise than in the presence of a person purchasing the goods; and
- 802 (2) none of the goods can be removed from the container without opening it⁴.

The goods which are so prescribed are specified goods⁵ which are both intended for sale and normally sold by weight or by volume in containers made up⁶ in a predetermined constant quantity⁷.

Regulations⁸ may make provision, in relation to a package which contains more than one container or goods of more than one kind, as to which of the containers or goods are to be⁹ disregarded¹⁰.

1 Ie subject to the Weights and Measures Act 1985 s 54(1): see PARA 212 post.

2 As to the meaning of 'container' see PARA 205 note 5 ante.

3 As to the meaning of 'goods' see PARA 205 note 5 ante.

4 Weights and Measures Act 1985 s 68(1). As to the marking of packages see PARA 210 post.

5 Ie goods of the description specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 3, Sch 1 Pt I col 1, Pt II col 1, Pt III col 1 (as amended) and goods of any other description.

6 Ie in the circumstances mentioned in the definition of 'package' in the Weights and Measures Act 1985 s 68(1) (see the text and notes 1-4 supra).

7 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 3. For the meaning of references to a predetermined constant quantity see PARA 205 note 6 ante.

8 For the meaning of 'regulations' see PARA 206 note 1 ante. In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended). As to the making of regulations see PARA 3 ante.

9 Ie for the purposes of prescribed provisions of the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended).

10 Ibid s 68(3).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

207 Meaning of 'package'

TEXT AND NOTES--Replaced. 'Package' means the combination of a product and the individual package in which it is packed, provided that the product is placed in the package without the purchaser being present and, except in the case of knitting yarn, the quantity of the product in the package cannot be altered without the package being opened or undergoing a perceptible modification: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 2.

'Knitting yarn' means knitting yarn consisting of natural fibres (whether animal, vegetable or mineral), chemical fibres, or a mixture of such fibres: reg 2.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(1) IN GENERAL/208. Classes of packages.

208. Classes of packages.

Packages¹ are classified as follows:

- 803 (1) class A packages, being packages containing goods² of a specified description³, in a case where the packages are made up in a predetermined constant quantity⁴ of not less than the lower limit and not more than the upper limit specified in relation to the description in question⁵; and
- 804 (2) class B packages, being packages which are not class A packages⁶.

1 For the meaning of 'package' see PARA 207 ante.

2 As to the meaning of 'goods' see PARA 205 note 5 ante.

3 I.e goods of a description specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 4(1), Sch 1 Pt I col 1, Pt II col 1, other than goods of an excluded category, and in Sch 1 Pt III col 1. For these purposes, references to goods of an excluded category are references to goods (within a description mentioned in Sch 1 Pt I col 1, Pt II col 1) of a category mentioned in Sch 1 Pt I col 2, Pt II col 2 or to goods of a category so mentioned when made up or, as the case may be, made for sale in the quantity, or in the quantity and the circumstances, mentioned in Sch 1 Pt I col 2, Pt II col 2 in relation to that category; and the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended) applies in relation to packages of those classes subject to the provisions made by the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 5(2) (see note 6 infra): reg 4(2).

4 For the meaning of references to a predetermined constant quantity see PARA 205 note 6 ante.

5 Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, regs 2(2), 4(1)(a). The description referred to in the text is that specified in Sch 1 Pt I col 3, Sch 1 Pt II col 3 or in Sch 1 Pt III col 2.

6 Ibid regs 2(2), 4(1)(b). The Weights and Measures Act 1985 Pt V (as amended) and the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (as amended) have effect in relation to class A packages of a kind mentioned in Sch 3 Pt I col 1 (amended by SI 1994/1852) with the modifications specified in relation thereto in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, Sch 3 Pt I col 2 (amended by SI 1987/1538; SI 1994/1852); and the Weights and Measures Act 1985 Pt V (as amended) has effect in relation to class B packages with the modifications specified in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, Sch 3 Pt II: see reg 5(2). The modifications set out in Sch 3 Pt I col 2 (as amended) have effect in relation to packages of the description mentioned in Sch 3 Pt I col 1 (as amended) (instead of the modifications set out in Sch 3 Pt I col 2 (as amended) in the case in question so far as they relate to the provisions mentioned in Sch 3 Pt I col 2 (as amended)) when such packages are made up as mentioned in Sch 3 Pt 1 para 2(b) col 1: see reg 5(3).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(2) QUANTITY CONTROL/209. Duty of packers and importers as to quantity.

(2) QUANTITY CONTROL

209. Duty of packers and importers as to quantity.

It is the duty of a person who is the packer¹ or importer² of regulated packages³ to ensure that, when a group of the packages marked with the same nominal quantity⁴ is selected in the prescribed manner and the packages in the group or such a portion of the group as is so selected are tested in the prescribed manner by an inspector⁵:

805 (1) the total quantity of the goods⁶ shown by the test to be included in the packages tested divided by the number of those packages is not less than the nominal quantity on those packages⁷; and

806 (2) the number of non-standard⁸ packages among those tested is not greater than the number prescribed as acceptable in relation to the number tested⁹.

A person discharges the duty so imposed on him in respect of a group of packages if the quantity of goods in each package is or exceeds the nominal quantity on the package¹⁰.

Regulations¹¹ made in pursuance of these provisions with respect to the manner of selecting or testing packages may¹² make provision by reference to a document other than the regulations, which may be or include a code of practical guidance issued by the Secretary of State¹³.

Where, as a result of a test in respect of a group of packages which is carried out when the packages are in the possession of the packer or importer of the packages or another person, it is shown that the packer or importer of the packages has failed to perform the duty imposed on him by these provisions in respect of the packages, then, without prejudice to the liability of the packer or importer¹⁴ in respect of the failure, it is the duty of the person in possession of the packages to keep them in his possession:

- 807 (a) except so far as he is authorised by or under regulations to dispose of them¹⁵;
or
- 808 (b) if he is the packer or importer of them, until he has performed his duty¹⁶ in respect of the group¹⁷.

1 For the meaning of 'packer' see PARA 205 note 18 ante.

2 For the meaning of 'importer' see PARA 205 note 19 ante.

3 'Regulated package' means, subject to the Weights and Measures Act 1985 s 54(1) (see PARA 212 post), any package which: (1) was made up in the United Kingdom on or after the date on which the goods in the package became prescribed goods; or (2) was imported on or after that date: s 68(1). For the meaning of 'package' see PARA 207 ante. For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

4 'Nominal quantity', in relation to a package, means the units of weight or volume prescribed for the package and the number of them in the statement of quantity marked on the container included in the package, any other matter in the statement being disregarded: ibid s 68(1). If two or more different nominal quantities are marked on a package, each of those quantities except the one which indicates the larger or largest quantity is to be disregarded: s 68(4). As to the meaning of 'container' see PARA 205 note 5 ante.

5 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; as to obstruction and failure to assist inspectors see PARA 35 ante; and as to enforcement of control see PARA 213 et seq post.

6 As to the meaning of 'goods' see PARA 205 note 5 ante.

7 Weights and Measures Act 1985 s 47(1)(a).

8 A package is non-standard if the quantity of the goods it contains is less by more than a prescribed amount than the nominal quantity on the package: ibid s 68(2)(a).

9 Ibid s 47(1)(b). As to offences see PARA 213 post.

10 Ibid s 47(2).

11 For the meaning of 'regulations' see PARA 206 note 1 ante.

12 Ie without prejudice to the generality of the powers to make regulations conferred by the Weights and Measures Act 1985 s 47(1) (see the text and notes 1-9 supra) or to the generality of s 66(b) (see PARA 206 head (b) ante).

13 Ibid s 47(3). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (amended by SI 1987/1538; SI 1992/1580; SI 1994/1258; SI 1994/1852; SI 2000/3236). As to the tests to be carried out see the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, Pt V (regs 20-24), Sch 5.

The Secretary of State also issued on 6 December 1979 the Code of Practical Guidance for Packers and Importers (Issue No 1) and the Manual of Practical Guidance for Inspectors (Issue No 1), certain provisions of the

Packers' Code being given statutory recognition by the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 18. In addition, codes of practice approved by the Secretary of State have been produced by various trade associations, but they do not have the force of law. As to the Secretary of State see PARA 16 ante.

14 Ie under the Weights and Measures Act 1985 s 50(1): see PARA 213 post.

15 Ibid s 47(4)(a).

16 Ie under ibid s 47(1).

17 Ibid s 47(4)(b).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

209-211 Duty of packers and importers as to quantity ... Duties as to equipment, checks and documentation

The Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, regs 4-6, 8, 9 do not apply to a package (see PARA 207) or outer container (see PARA 205) which has been (1) packed in, or imported into, a member state other than the United Kingdom; (2) marked with the E-mark (see PARA 212) in accordance with the law of that member state (see PARA 210); and (3) marked with the name and address of the person in that member state who packed or imported the package or outer container, or who arranged for the package or outer container to be packed, if, after the package or outer container has left that member state, at least one of the following conditions is satisfied in relation to it: (a) it has not entered a country which is not a member state; (b) it has been sealed at all times in a container bearing a customs seal; (c) there has been no reasonable opportunity for any person to alter the quantity of the product within it: reg 3(5).

209 Duty of packers and importers as to quantity

TEXT AND NOTES--Replaced.

It is the duty of the packer¹ or importer² of packages to ensure that they are made up in such a way as to satisfy the following rules:

- 1 (1) the contents of the packages must be not less on average than the nominal quantity³;
- 2 (2) the proportion of packages having a negative error⁴ greater than the tolerable negative error⁵ must be sufficiently small for batches⁶ of packages to satisfy the specified requirements⁷; and
- 3 (3) no package must have a negative error greater than twice the tolerable negative error⁸.

Compliance with the rules in heads (1), (2) above, must be determined by the reference test⁹.

1 For the meaning of 'packer' see PARA 205.

2 'Importer' means, in relation to a package or outer container, the person by whom, or on whose behalf, the package or outer container is brought into the United Kingdom: *ibid* reg 2. For the meaning of 'package' see PARA 207. For the meaning of 'outer container' see PARA 205.

3 'Nominal quantity' means the weight or volume marked on or in respect of a package pursuant to SI 2006/659 reg 5(1)(a) or reg 6(1)(a) (see PARA 210), or entered in a record made under reg 5(2) or reg 6(2) (see PARA 210): reg 2. An indication of nominal quantity applied to (1) a package under reg 5(1)(a); (2) an outer package under reg 6(1)(a), (b); or (3) a package or outer container which satisfies the conditions in reg 3(5) is deemed not to be a trade description within the meaning of the Trade Descriptions Act 1968 (see *SALE OF GOODS AND SUPPLY OF SERVICES* vol 41 (2005 Reissue) PARA 471 et seq): SI 2006/659 reg 20.

4 'Negative error' means the quantity by which the contents of a package are less than the nominal quantity: *ibid* reg 2.

5 'Tolerable negative error' means the amount set out in the table in *ibid* Sch 3 in relation to the nominal quantity of the package: reg 2.

6 'Batch' means a group of packages selected in accordance with the provisions of *ibid* Sch 2 for the purposes of conducting a reference test; 'reference test' means the tests set out in Sch 2: reg 2.

7 *Ie* the requirements specified in *ibid* Sch 2.

8 *Ibid* reg 4(1).

9 *Ibid* reg 4(2).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(2) QUANTITY CONTROL/210. Duty of packers and importers as to marking of containers.

210. Duty of packers and importers as to marking of containers.

It is the duty of a person who is the packer¹ or importer² of a regulated package³ to ensure that the container⁴ included in the package is marked before the prescribed time and in the prescribed manner with:

- 809 (1) a statement of quantity in prescribed units either of weight or of volume, as regulations⁵ require⁶; and
- 810 (2) his name and address or a mark⁷ which enables his name and address to be readily ascertained by an inspector⁸, or:

22. (a) if he is the packer of the package, the name and address of a person who arranged for him to make up the package or a mark which enables that name and address to be readily ascertained by an inspector⁹;
 23. (b) if he is the importer of the package, the name and address of the packer of the package or of the person who arranged for the packer to make up the package or a mark which enables the name and address of the packer or that person to be readily ascertained by an inspector¹⁰; and
- 20
- 811 (3) if regulations so provide, a mark allocated to him by a scheme¹¹ for the purpose of enabling the place where the package was made up to be ascertained¹².

If, at the time when a regulated package is made up or imported, the container included in the package is not marked with such a statement as is mentioned in head (1) above, it is the duty of the packer or, as the case may be, the importer of the package:

- 812 (i) to decide what statement he proposes to mark on the container¹³; and
- 813 (ii) to make at that time, and to maintain for the prescribed period, a record of the statement¹⁴.

Until the time mentioned above or any earlier time at which the container is actually marked in the prescribed manner in pursuance of head (1) above, it is to be treated¹⁵ as marked with the statement in the record¹⁶.

1 For the meaning of 'packer' see PARA 205 note 18 ante.

2 For the meaning of 'importer' see PARA 205 note 19 ante.

3 For the meaning of 'regulated package' see PARA 209 note 3 ante; and for the meaning of 'package' see PARA 207 ante.

4 As to the meaning of 'container' see PARA 205 note 5 ante.

5 For the meaning of 'regulations' see PARA 206 note 1 ante.

6 Weights and Measures Act 1985 s 48(1)(a). As to offences see PARA 213 post. A statement applied to a package in pursuance of s 48(1)(a) is deemed not to be a trade description within the meaning of the Trade Descriptions Act 1968 (see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 471 et seq): Weights and Measures Act 1985 s 48(4).

As to the marking of packages with a statement of quantity see the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 10 (amended by SI 1987/1538); and as to the marking of packages with the name and address, or identifying mark, of a packer or importer see the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 11.

7 As to the meaning of 'mark' see PARA 28 note 10 ante.

8 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; as to obstruction and failure to assist inspectors see PARA 35 ante; and as to enforcement of control see PARA 213 et seq post.

9 Weights and Measures Act 1985 s 48(1)(b)(i).

10 Ibid s 48(1)(b)(ii).

11 Ie a scheme in pursuance of ibid s 58 (as amended): see PARA 223 post.

12 Ibid s 48(1)(c).

13 Ibid s 48(2)(a). The statement referred to in the text is the statement made in pursuance of s 48(1)(a): see head (1) in the text.

14 Ibid s 48(2)(b).

15 le for the purposes of ibid Pt V (ss 47-68) (as amended).

16 Ibid s 48(3).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

209-211 Duty of packers and importers as to quantity ... Duties as to equipment, checks and documentation

The Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, regs 4-6, 8, 9 do not apply to a package (see PARA 207) or outer container (see PARA 205) which has been (1) packed in, or imported into, a member state other than the United Kingdom; (2) marked with the E-mark (see PARA 212) in accordance with the law of that member state (see PARA 210); and (3) marked with the name and address of the person in that member state who packed or imported the package or outer container, or who arranged for the package or outer container to be packed, if, after the package or outer container has left that member state, at least one of the following conditions is satisfied in relation to it: (a) it has not entered a country which is not a member state; (b) it has been sealed at all times in a container bearing a customs seal; (c) there has been no reasonable opportunity for any person to alter the quantity of the product within it: reg 3(5).

210 Duty of packers and importers as to marking of containers

TEXT AND NOTES--Replaced.

It is the duty of the packer¹ or the importer² of a package³ to ensure that the package is marked, in such a manner as to be indelible, easily legible and visible in normal conditions of presentation, with the following:

- 4 (1) the nominal quantity⁴, being the predetermined constant quantity in which that package is made up, including any additional quantity to which any statement on the package refers⁵; and

- 5 (2) the name and address of a person established in the United Kingdom who is either the packer or the importer of the package, or the person who arranged for the packer to make up, or the importer to import, the package, or a mark which enables the name and address of such a person to be readily ascertained by his local weights and measures authority⁶.

If at the time when a package is made up or imported the package is not marked with the nominal quantity, it is the duty of the packer or the importer of the package to decide what he proposes to mark on the package in pursuance of head (1) above, and to make at that time, and to maintain until such time as the package is so marked, a record of the same⁷. The above provisions do not apply to milk which is sold or supplied to a consumer in a returnable container⁸.

A packer or importer may mark a package which is made up to comply with specified requirements⁹, and has a nominal quantity not exceeding 10 kilograms or 10 litres, with the E-mark¹⁰, in which case the mark must be indelible, easily legible and visible in normal conditions of presentation and be placed in the same field of vision as the indication of nominal quantity required by head (1) above¹¹. Where a package is sold or supplied to a consumer by a packer from his own premises, or from a vehicle used solely by him, head (2) above, only applies to that package if it is marked with the E-mark¹². A packer or importer is not obliged to mark a package which is contained within an outer container and which is not intended, and would not normally be regarded as appropriate, for sale to an ultimate consumer as a separate item¹³. Where a package is required to be marked¹⁴ with information about the manufacturer or supplier established in a member state¹⁵ then the requirement in head (2) above, to mark the name and address of a packer or importer who is established in the United Kingdom does not apply¹⁶.

It is the duty of the packer or the importer of an outer container¹⁷, to ensure that an outer container is marked, in such a manner as to be indelible, easily legible and visible in normal conditions of presentation, with the following:

- 6 (a) the nominal quantity of the packages contained in the outer container, being the predetermined constant quantity in which those packages are made up, including any additional quantity to which any statement on the package or outer container refers, or where the packages have different nominal quantities, each distinct nominal quantity¹⁸;
- 7 (b) the number of packages contained in the outer container, or where the packages have different nominal quantities, the number of packages corresponding to each nominal quantity; and
- 8 (c) the name and address of a person established in the United Kingdom who is either the packer or the importer of the packages contained in the outer container, or, the person who arranged for the packer to make up, or the importer to import, those packages, or a mark which enables the name and address of such a person to be readily ascertained by his local weights and measures authority¹⁹.

If at the time when an outer container is packed or imported the outer container is not marked with the nominal quantities and number of packages as mentioned in heads (a), (b) above, it is the duty of the packer or the importer of the outer container to decide what he proposes to mark on the outer container in pursuance of heads (a), (b), and to make at that time, and to maintain until such time as the outer container is so marked, a record of the same²⁰. If an outer container contains one or more packages which are, or could lawfully be, marked with the E-mark, then the outer container may

also be marked with the E-mark, provided the E-mark is affixed in such a way that it refers only to, and is in the same field of vision as, the nominal quantity of the package or packages which are, or could lawfully be, marked with an E-mark, and, is indelible, easily legible and visible in normal conditions of presentation²¹. Where an outer container is sold or supplied to a consumer by the packer of the outer container from the packer's own premises, or from a vehicle used solely by him, head (c) above, only applies to that outer container if it is marked with the E-mark²². A packer or an importer of an outer container need not mark the outer container with the information required by heads (a)-(c) above, if information is marked on inner packaging which can be viewed without opening the outer container and the information required by heads (a)-(c) can be readily ascertained from such information²³. Where an outer container is required to be marked²⁴ with information about the manufacturer or supplier established in a member state then the requirement in head (c) above, to mark the name and address of a packer or importer who is established in the United Kingdom does not apply²⁵.

Where an indication of nominal quantity is marked on a package or an outer container otherwise than pursuant to the duty imposed²⁶ on a packer or importer, then the person who marks that indication is subject to the duties imposed by these provisions as though he were the packer of the package or outer container²⁷.

1 For the meaning of 'packer' see PARA 205.

2 For the meaning of 'importer' see PARA 209.

3 For the meaning of 'package' see PARA 207.

4 For the meaning of 'nominal quantity' see PARA 209.

5 Ie in accordance with the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 8.

6 Ibid reg 5(1). For the meaning of 'local weights and measures authority' see PARA 20.

7 Ibid reg 5(2).

8 Ibid reg 5(4).

9 Ie the requirements in ibid reg 4: see PARA 209.

10 For the meaning of 'E-mark' see PARA 212.

11 SI 2006/659 reg 5(3).

12 Ibid reg 5(5).

13 Ibid reg 5(6).

14 Ie in accordance with the Cosmetic Products (Safety) Regulations 2008, SI 2008/1284, reg 12: see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARAS 587--593.

15 'Member state' for the purposes of SI 2006/659 means a member state, Norway, Iceland or Liechtenstein: reg 2.

16 Ibid reg 5(7).

17 For the meaning of 'outer container' see PARA 205.

18 Marked in accordance with SI 2006/659 (see NOTE 5) reg 8.

19 Ibid reg 6(1).

20 Ibid reg 6(2).

- 21 Ibid reg 6(3).
- 22 Ibid reg 6(4).
- 23 Ibid reg 6(5).
- 24 In accordance with SI 2008/1284 (see NOTE 14) reg 12.
- 25 SI 2006/659 reg 6(6).
- 26 Ie by ibid regs 5(1) or 6(1).
- 27 Ibid reg 7.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(2) QUANTITY CONTROL/211. Duties as to equipment, checks and documentation.

211. Duties as to equipment, checks and documentation.

It is the duty of a person who makes up packages¹ either:

- 814 (1) to use suitable equipment of the prescribed kind² in an appropriate manner in making up the packages³; or
- 815 (2) to carry out at the prescribed time⁴ a check which is adequate to show whether he has performed the duty imposed on him⁵ in respect of the packages, and:
- 21
- 24. (a) to use suitable equipment of the prescribed kind⁶ in an appropriate manner in carrying out the check⁷; and
- 25. (b) to make, and to keep for the prescribed period⁸, an adequate record of the check⁹.
- 22

It is the duty of a person who is the importer of regulated packages:

- 816 (i) to carry out at the prescribed time¹⁰ such a check as is mentioned in head (2) above and to comply with heads (2)(a) and (2)(b) above in connection with the check¹¹; or
- 817 (ii) to obtain before the prescribed time¹², and to keep for the prescribed period¹³, documents containing such information about the packages as is adequate to show that the person is likely to have complied with his duty¹⁴ in relation to the packages¹⁵.

Regulations¹⁶ may provide¹⁷:

- 818 (A) for equipment not to be suitable equipment for the purposes of the statutory provision in question unless it is made from materials and on principles specified in the regulations and is inspected, tested and certified as provided by the regulations¹⁸;
- 819 (B) for questions as to the suitability of equipment, the appropriate manner of using equipment and the adequacy of checks, records and information to be determined for those purposes by reference to documents other than the

- regulations, which may be or include codes or parts of codes of practical guidance issued or approved by the Secretary of State¹⁹; and
- 820 (c) that the use and the possession for use²⁰ of a thing which is suitable equipment for the purpose of the statutory provision in question is not to constitute a contravention²¹ of the statutory provision²² relating to the unlawful use for trade of units of measurement, weight or measures²³.

Where regulations made by virtue of head (A) above provide for inspection, testing and certification of equipment, a local weights and measures authority²⁴ may charge such reasonable fees as it may determine for the inspection, testing and certification of the equipment²⁵.

1 For the meaning of 'package' see PARA 207 ante.

2 As to the equipment prescribed for making up and checking packages for the purposes of the Weights and Measures Act 1985 s 49(1)(a) see the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 13(1), Sch 4 Pts II, IV.

3 Weights and Measures Act 1985 s 49(1)(a). As to offences see PARA 213 post. The use and the possession for use, for the purposes of s 49(1) and s 49(2), of a liquid capacity measure, to the extent that it is equipment prescribed by the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 13 (see notes 2 supra, 6 infra), does not constitute a contravention of the Weights and Measures Act 1985 s 8(1)(b) (see PARA 46 head (2) ante): Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 19.

4 A check to be carried out: (1) for the purposes of the Weights and Measures Act 1985 s 49(1)(b) (see heads (2)(a), (b) in the text) by a person who makes up packages; and (2) for the purposes of s 49(2)(a) (see head (i) in the text) by a person who is the importer of regulated packages, must be carried out before the packages in question leave the possession of that person, provided that, where, for the purposes of s 49(2)(a), a check is to be carried out on behalf of a person mentioned in s 49(2)(b) (see head (ii) in the text) by another person, the check must be carried out before the packages in question leave the possession of that other person: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 14. For the meaning of 'importer' see PARA 205 note 19 ante; and for the meaning of 'regulated package' see PARA 209 note 3 ante.

5 Ie the duty imposed by the Weights and Measures Act 1985 s 47(1): see PARA 209 ante.

6 As to the equipment prescribed for carrying out an adequate check on packages for the purposes of ibid s 49(1)(b) (see heads (2)(a), (b) in the text) and s 49(2)(a) (see head (i) in the text) see the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 13(2), Sch 4 Pts III, IV.

7 Weights and Measures Act 1985 s 49(1)(b)(i).

8 The record of a check carried out for the purposes of the Weights and Measures Act 1985 s 49(1)(b) (see heads (2)(a), (b) in the text) or s 49(2)(a) (see head (i) in the text) must be kept for the period of one year beginning with the day on which the record is made: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 15.

9 Weights and Measures Act 1985 s 49(1)(b)(ii).

10 See note 4 supra.

11 Weights and Measures Act 1985 s 49(2)(a).

12 Documents containing information about packages obtained by an importer in pursuance of ibid s 49(2)(b) (see head (ii) in the text) must be obtained before the time when the packages in question leave his possession and must be kept for a period of one year beginning with the day on which he obtained the documents: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 16.

13 See note 12 supra.

14 Ie under the Weights and Measures Act 1985 s 47(1): see PARA 209 ante.

15 Ibid s 49(2)(b).

16 For the meaning of 'regulations' see PARA 206 note 1 ante.

17 le without prejudice to the generality of the powers to make regulations conferred by the Weights and Measures Act 1985 s 49(1) or s 49(2) or the generality of s 66 (see PARA 206 ante).

18 Ibid s 49(3)(a). In exercise of the power so conferred the Secretary of State has made the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 (amended by SI 1987/1538; SI 1992/1580; SI 1994/1258; SI 1994/1852; SI 2000/3236).

The Secretary of State also issued on 6 December 1979 the Code of Practical Guidance for Packers and Importers (Issue No 1) and the Manual of Practical Guidance for Inspectors (Issue No 1), certain provisions of the Packers' Code being given statutory recognition by the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 18. In addition, codes of practice approved by the Secretary of State have been produced by various trade associations, but they do not have the force of law. As to the Secretary of State see PARA 16 ante.

19 Weights and Measures Act 1985 s 49(3)(b).

20 le for the purposes of ibid s 49(1) or s 49(2).

21 As to the meaning of 'contravention' see PARA 46 note 12 ante.

22 le the Weights and Measures Act 1985 s 8(1)(b): see PARA 77 ante.

23 Ibid s 49(3)(c).

24 For the meaning of 'local weights and measures authority' see PARA 20 ante.

25 Weights and Measures Act 1985 s 49(4).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

209-211 Duty of packers and importers as to quantity ... Duties as to equipment, checks and documentation

The Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, regs 4-6, 8, 9 do not apply to a package (see PARA 207) or outer container (see PARA 205) which has been (1) packed in, or imported into, a member state other than the United Kingdom; (2) marked with the E-mark (see PARA 212) in accordance with the law of that member state (see PARA 210); and (3) marked with the name and address of the person in that member state who packed or imported the package or outer container, or who arranged for the package or outer container to be packed, if, after the package or

outer container has left that member state, at least one of the following conditions is satisfied in relation to it: (a) it has not entered a country which is not a member state; (b) it has been sealed at all times in a container bearing a customs seal; (c) there has been no reasonable opportunity for any person to alter the quantity of the product within it: reg 3(5).

211 Duties as to equipment, checks and documentation

TEXT AND NOTES--Replaced.

It is the duty of a packer¹ in making up packages² either (1) to measure the product contained in each package using equipment which complies with the following provisions to ensure that the packages are packed in accordance with the three packers' rules³, or (2) to carry out checks on the product contained in the packages using a system of sampling and tests which are sufficiently rigorous to ensure that the packages are packed in accordance with the three packers' rules, and for this purpose (a) to use equipment which complies with the following provisions; and (b) to make, and to keep until the relevant date, a record of the checks, together with a record of the corrections and adjustments which they have shown to be necessary⁴. Equipment complies with these provisions if it is suitable for the use to which it is put⁵. It is the duty of an importer⁶ (i) to carry out such a check as is mentioned in head (2) above, and to comply with the provisions of heads (2)(a), (b), above, in connection with the check; or (ii) to obtain, before the packages leave his possession, sufficient evidence to give reasonable grounds for believing that the packages have been packed in accordance with the three packers' rules⁷. The importer must keep, until the relevant date, the evidence obtained for the purposes of head (ii) above⁸. The relevant date, for the purposes of head (2)(b) and the previous provision is either the date, as marked on the package, which indicates by when the product ought to be consumed, or one year after the packages have left the possession of the packer or importer, as appropriate, whichever occurs first⁹.

1 For the meaning of 'packer' see PARA 205.

2 For the meaning of 'package' see PARA 207.

3 See the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 4(1): para 209.

4 Ibid reg 9(1).

5 Ibid reg 9(2).

6 For the meaning of 'importer' see PARA 209.

7 SI 2006/659 reg 9(3).

8 Ibid reg 9(4).

9 Ibid reg 9(5).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(2) QUANTITY CONTROL/212. Packages with the EEC mark.

212. Packages with the EEC mark.

The provisions described below apply only to packages¹ containing goods² of a prescribed³ quantity; and references to packages are to be construed accordingly⁴.

If in the course of carrying on a business:

- 821 (1) a person marks a package with the EEC mark⁵ and is neither the packer⁶ nor the importer⁷ of the package nor a person acting on behalf of the packer or importer of the package⁸; or
- 822 (2) a person marks a package with a mark so closely resembling the EEC mark as to be likely to deceive⁹,

he is guilty of an offence and liable to a penalty¹⁰.

A person who brings a package marked with the EEC mark into the United Kingdom¹¹ does not import the package if he shows that the package is from a member state of the European Community in which it was liable to be tested under a law corresponding to the provision of the Weights and Measures Act 1985¹² and, except in such cases as are determined by or under regulations¹³, has not since leaving that state been in a country which is not such a member state¹⁴.

It is the duty of:

- 823 (a) the packer of packages which are marked with the EC mark and which he intends to export from the United Kingdom¹⁵;
- 824 (b) a person who intends to import packages which are so marked and to export them from the United Kingdom to a place in another member state of the European Community¹⁶; and
- 825 (c) a person who intends to import packages, to mark them with the EEC mark and to export them as mentioned in head (b) above¹⁷,

to give before the prescribed time and in the prescribed manner¹⁸, to the local weights and measures authority for the area in which the packages were packed or, as the case may be, in which the place of intended import is situated, a notice¹⁹ containing such information about the packages as is prescribed²⁰ and, in the case of a person who has given such a notice in pursuance of head (b) or head (c) above, such further information about the packages in question as an inspector²¹ may specify in a notice served on the person by the inspector²². A person who fails without reasonable cause to perform a duty so imposed on him is guilty of an offence and liable to a penalty²³.

Regulations may enable an inspector to give notice to any person providing that, until an inspector informs the person in writing that the notice is cancelled, any of heads (a) to (c) above which is specified in the notice does not apply to the person or does not apply to him as respects packages of a kind specified in the notice or a place so specified²⁴.

1 For the meaning of 'package' see PARA 207 ante.

2 As to the meaning of 'goods' see PARA 205 note 5 ante.

3 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante. As to the Secretary of State see PARA 16 ante. The quantities which are so prescribed are: (1) any quantity being not less than five grams and not more than ten kilograms (in the case of packages made up by weight) (Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 6(a)); and (2) any quantity being not less than five millilitres and not more than ten litres (in the case of packages made up by volume) (reg 6(b)). For the meaning of 'gram' see PARA 44 ante; for the meaning of 'kilogram' see PARA 44 ante; for the meaning of 'millilitre' see PARA 42 ante; and for the meaning of 'litre' see PARA 42 ante.

4 Weights and Measures Act 1985 s 54(1).

5 For these purposes, 'EEC mark' means such mark as may be prescribed; and, without prejudice to the generality of *ibid* s 66 (see PARA 206 ante), regulations so prescribing a mark: (1) may contain such provisions as the Secretary of State considers appropriate with respect to the dimensions of the mark and the manner and position in which it is to be applied to the container included in a package; and (2) may provide for a mark which is not in accordance with those provisions to be disregarded for the purposes of prescribed provisions of s 54: s 54(7). As to the meaning of 'container' see PARA 205 note 5 ante. The EEC mark consists of a small letter 'e' having the form shown in the drawing 'A' set out in the Measuring Instruments (EEC Requirements) Regulations 1988, SI 1988/186, reg 4(1), Sch 1, Annex (see PARA 75 ante) and complying with the provisions of that Annex with respect to the dimensions of the mark and, when applied to the container included in a package, the mark must be: (a) at least three millimetres high; (b) placed in the same field of vision as that of the statement of quantity marked on the package; and (c) indelible, clearly legible and visible under normal conditions of purchase: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 12(1); Interpretation Act 1978 s 17(2)(b). An EEC mark which is applied to the container included in a package otherwise than in compliance with the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 12(1) is to be disregarded for the purposes of the Weights and Measures Act 1985 s 54(3)-(5): Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 12(2).

6 For the meaning of 'packer' see PARA 205 note 18 ante.

7 For the meaning of 'importer' see PARA 205 note 19 ante.

8 Weights and Measures Act 1985 s 54(2)(a).

9 *Ibid* s 54(2)(b).

10 *Ibid* ss 54(2), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 54(2), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

11 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

12 *Ie* the Weights and Measures Act 1985 s 47(1): see PARA 209 ante.

13 For the meaning of 'regulations' see PARA 206 note 1 ante.

14 Weights and Measures Act 1985 s 54(3). For these purposes, a person does not import such packages, notwithstanding that, since leaving the member state in question, they have been in a country which is not such a member state, if at all times while the goods contained in the packages were in any such country either: (1) the goods were in containers bearing a customs seal; or (2) there was no reasonable opportunity for any person to alter the quantity of the goods contained in the packages: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 7.

15 Weights and Measures Act 1985 s 54(4)(a).

16 *Ibid* s 54(4)(b).

17 *Ibid* s 54(4)(c).

18 A notice which, by virtue of *ibid* s 54(4), is to be given to a local weights and measures authority by a person who intends to export from the United Kingdom packages marked with the EEC mark in the circumstances mentioned in s 54(4)(a), (b) or (c) (see heads (a)-(c) in the text) must be given in writing before the expiry of the date on which: (1) in a case falling within s 54(4)(a), the packages in question are marked with the EEC mark; and (2) in a case falling within s 54(4)(b) or (c), the packages in question are imported: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 8(1)(a). For the meaning of 'local weights and measures authority' see PARA 20 ante.

19 'Notice' means notice in writing: Weights and Measures Act 1985 s 68(1).

20 A notice which, by virtue of *ibid* s 54(4) is to be given to a local weights and measures authority, by a person who intends to export from the United Kingdom packages marked with the EEC mark in the circumstances mentioned in s 54(4)(a), (b) or (c) (see heads (a)-(c) in the text) must contain the following information about the packages, *ie*: (1) a description of the goods contained in them; (2) the nominal quantity on, or to be marked on, them; (3) in a case where they were made up in the United Kingdom, the place where they were made up; and (4) in a case where they are to be or have been imported, the place where they will be or, as the case may be, where they were, imported: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 8(1)(b). For the meaning of 'nominal quantity' see PARA 209 note 4 ante.

The units in a statement of quantity with which a class A package is to be marked are: (a) units of weight (in the case of a package of which the specified limits of quantity are expressed in such units); (b) units of volume (in the case of a package of which the said limits are expressed in such units); and (c) units of weight or volume (in the case of a package of which the said limits are expressed in both such units): reg 8(3). The units in a statement of quantity with which a class B package is to be marked are: (i) units of weight (in the case of a package made up for sale by weight); and (ii) units of volume (in the case of a package made up for sale by volume): reg 8(4). A statement of quantity must be marked on a class A package before it ceases to be in the possession of the person who made it up or, as the case may be, of the person who is the importer of it: reg 8(5). As to the manner in which a statement of quantity is to be marked on a package see reg 8(7), (8). For the meanings of 'class A package' and 'class B package' see PARA 208 ante.

A record of a statement of quantity which the packer or importer of a class A package proposes to mark on it, being a record made in pursuance of the Weights and Measures Act 1985 s 48(2) (see PARA 210 ante), must be kept for the period beginning with the time when the record is made and ending not earlier than the time when the container included in the package to which the statement relates is marked with that statement or, if it is not so marked, until the time prescribed by the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 8(5) as applicable in relation to the package: reg 8(6).

21 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; as to obstruction and failure to assist inspectors see PARA 35 ante; and as to enforcement of control see PARA 213 et seq post.

22 Weights and Measures Act 1985 s 54(4).

23 Ibid ss 54(5), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 54(5), 84(6).

24 Ibid s 54(6). An inspector may give to any person a notice, as mentioned in s 54(6), relieving him from the obligation to give the notice mentioned in the Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 8(1) (see notes 18, 20 supra): reg 8(3).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

205-212 Application of the statutory provisions ... Packages with the EEC mark

Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049 replaced: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

212 Packages with the [E-mark]

TEXT AND NOTES--Replaced.

A person who, in the course of carrying on a business (1) marks a package¹ or outer container² with the E-mark³ and is neither the packer⁴ nor the importer⁵ of the package or outer container, nor a person acting on behalf of the packer or importer; (2) marks a package or outer container with a mark so closely resembling the E-mark as to be

likely to deceive; or (3) marks a package or outer container with the E-mark otherwise than as permitted by these provisions is guilty of an offence and liable to a penalty⁶.

Subject as follows, it is the duty of (a) the packer of packages which are marked with the E-mark and which he intends to export from the United Kingdom; (b) a person who intends to import packages which are so marked and to export them from the United Kingdom to another member state⁷; or (c) a person who intends to import packages, to mark them with the E-mark and to export them as mentioned in head (b) above, to give to the local weights and measures authority⁸ for the area in which the packages were packed or in which the place of intended import is situated, a notice in accordance with the following provisions⁹. Such a notice must be given in writing before the expiry of the day on which in a case falling within head (a) above, the packages in question are marked with the E-mark, or in a case falling within heads (b), (c), the packages in question are imported, and must specify the place where the packages were packed or the place of intended import¹⁰. A person is under no duty to give such a notice if the place where the packages were packed or the place to which he intends to import the packages, has already been specified by him in a previous notice¹¹ to a local weights and measures authority, and he has not since that previous notice was given, informed that local weights and measures authority that he no longer uses that place for an activity falling within heads (a), (c) above¹². A person who fails to comply with a duty imposed on him by these provisions is guilty of an offence¹³.

1 For the meaning of 'package' see PARA 207.

2 For the meaning of 'outer container' see PARA 205.

3 'The E-mark' means a letter 'e', at least 3 mm high, having the form shown in the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, Sch 4: reg 2.

4 For the meaning of 'packer' see PARA 205.

5 For the meaning of 'importer' see PARA 209.

6 SI 1005/659 regs 15(1), 18(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see reg 18(1). As to the standard scale see PARA 229 NOTE 1.

7 For the meaning of 'member state' see PARA 210.

8 For the meaning of 'local weights and measures authority' see PARA 20.

9 SI 2006/659 reg 11(1). Where a person has given a notice pursuant to reg 11(1), an inspector may serve a notice in writing on that person requiring him to provide to the inspector such further information about the packages as is specified in the notice: reg 11(3). 'Inspector' means an inspector of weights and measures appointed under the Weights and Measures Act 1985 s 72(1) (see PARA 23): SI 2006/659 reg 2.

10 Ibid reg 11(2).

11 Ie given pursuant to ibid reg 11(1).

12 Ibid reg 11(4).

13 Ibid reg 15(2).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(i) Offences/213. Offences etc.

(3) ENFORCEMENT OF CONTROL

(i) Offences

213. Offences etc.

A person who fails to perform a duty imposed on him by the provisions relating to a packer's or importer's duty as to quantity¹ or as to the marking of containers² or the duties as to equipment, checks and documentation of a person who makes up packages³ is guilty of an offence and liable to a penalty⁴.

If a person purports to comply with his duty as the importer of regulated packages to use suitable equipment of the prescribed kind in an appropriate manner in making up the packages⁵ by making a record which he knows is false in a material particular, he is guilty of an offence and liable to a penalty⁶.

If a person purports to comply with his duty as the importer of regulated packages to obtain before the prescribed time, and to keep for the prescribed period, documents containing such information about the packages as is adequate to show that the person is likely to have complied with his duty in relation to the packages⁷ by reference to a document containing information which he knows is false in a material particular, he is guilty of an offence and liable to a penalty⁸.

If a person, with intent to deceive, alters any record⁹ or document¹⁰ kept by him, he is guilty of an offence and liable to a penalty¹¹.

If a person has in his possession for sale, agrees to sell or sells a regulated package which is inadequate¹² and either:

- 826 (1) he is the packer or importer of the package¹³; or
- 827 (2) he knows that the package is inadequate¹⁴,

he is guilty of an offence and liable to a penalty¹⁵.

If the packer of a regulated package which is inadequate and which was made up by him in the course of carrying out arrangements with another person for the packer to make up packages delivers the package to or to the order of a person to whom it falls to be delivered in pursuance of the arrangements, the packer is guilty of an offence and liable to a penalty¹⁶.

No action lies in respect of a failure to perform a duty imposed by the provisions relating to a packer's or importer's duty as to quantity or as to the marking of containers or the duties as to equipment, checks and documentation of a person who makes up packages¹⁷.

1 Ie a duty imposed under the Weights and Measures Act 1985 s 47: see PARA 209 ante. For the meaning of 'packer' see PARA 205 note 18 ante; and for the meaning of 'importer' see PARA 205 note 19 ante.

2 Ie a duty imposed under *ibid* s 48: see PARA 210 ante.

3 Ie a duty imposed under *ibid* s 49: see PARA 211 ante.

4 *Ibid* ss 50(1), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 50(1), 84(6). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post; as to offences by corporations see PARA 230 post; and as to defences to certain charges under s 50(1) see PARA 238 post. Evidence of failure to comply with the packers' and/or importers' duties may arise from the results of an inspector's reference test under s 53, Sch 8: see PARA 215 et seq post. As to the admission of evidence where a computer has been used see *R v Pettigrew* (1980) 71 Cr App Rep 39, CA.

5 Ie a duty under the Weights and Measures Act 1985 s 49(1)(b) (see PARA 211 head (2) ante) or s 49(1)(b) as applied by s 49(2)(a) (see PARA 211 head (i) ante).

6 Ibid ss 50(2), 84(4)(a). The penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 50(2), 84(4)(a).

7 Ie a duty under ibid s 49(2)(b): see PARA 211 head (ii) ante.

8 Ibid ss 50(3), 84(4)(a). The penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 50(3), 84(4)(a). For the meaning of 'regulated package' see PARA 209 note 3 ante.

9 Ie any record kept for the purposes of ibid s 48(2) (see PARA 210 ante) or s 49(1)(b)(ii) (see PARA 211 head (2)(b) ante) or s 49(1)(b)(ii) as applied by s 49(2)(a) (see PARA 212 head (i) ante).

10 Ie any document kept for the purposes of ibid s 49(2)(b) (see PARA 212 head (ii) ante).

11 Ibid ss 50(4), 84(4)(a). The penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see ss 50(4), 84(4)(a).

12 A package is inadequate if the quantity of the goods it contains is less by more than twice the prescribed amount than the nominal quantity on the package: ibid s 68(2)(b). For the meaning of 'nominal quantity' see PARA 209 note 4 ante.

13 Ibid s 50(5)(a).

14 Ibid s 50(5)(b).

15 Ibid ss 50(5), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 50(5), 84(6). As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.

16 Weights and Measures Act 1985 ss 50(6), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 50(6), 84(6). As to the application of the Enterprise Act 2002 s 230 see PARA 105 note 21 ante.

17 Weights and Measures Act 1985 s 50(7).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

213 Offences etc

TEXT AND NOTES--Replaced.

A person who fails to comply with a duty imposed on him by the provisions relating to the three packers' rules¹, or as to the marking of packages² or outer containers³ or as to equipment, checks and documentation⁴ is guilty of an offence and liable to a penalty⁵.

If a person purports to comply with his duty to make and keep a record of checks⁶ by making a record which he knows is false in a material particular, he is guilty of an offence and liable to a penalty⁷.

If a person purports to comply with his duty to obtain sufficient evidence to give reasonable grounds for believing that packages have been packed in accordance with the three packers' rules⁸ by reference to evidence which he knows is false in a material particular, he is guilty of an offence and liable to a penalty⁹.

If a person, with intent to deceive, alters any record kept¹⁰ or any evidence kept¹¹ he is guilty of an offence and liable to a penalty¹².

If a person has in his possession for sale, agrees to sell or sells a package in circumstances where he knows, or has reasonable grounds for believing, that the package has a negative error¹³ greater than twice the tolerable negative error¹⁴ he is guilty of an offence and liable to a penalty¹⁵.

If a person has in his possession for sale, agrees to sell or sells a package in circumstances where he knows, or has reasonable grounds for believing, that the package comes from a batch¹⁶ of packages which has failed the reference test¹⁷ the he is guilty of an offence unless he can show that he had reasonable grounds for believing that corrective action had been taken after the batch had failed the reference test to ensure that the batch subsequently complied with the requisite requirements¹⁸, or the actual quantity of the package exceeded the nominal quantity¹⁹ and liable to a penalty²⁰.

Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly²¹.

1 Ie a duty imposed under the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 4: see PARA 209. For the meaning of 'packer' see PARA 205.

2 Ie a duty imposed under *ibid* regs 5, 7: see PARA 210. For the meaning of 'package' see 207.

3 Ie a duty imposed under *ibid* regs 6, 7: see PARA 210. For the meaning of 'outer container' see PARA para 205.

4 Ie a duty imposed under *ibid* reg 9: see PARA 211.

5 *Ibid* reg 13(1), 18(1). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see reg 18(1). As to the standard scale see PARA 229 NOTE 1. As to defences see reg 19.

6 Ie a duty under *ibid* reg 9(1)(b)(ii), or reg 9(1)(b)(ii) as applied in reg 9(3)(a): see PARA 211.

7 *Ibid* reg 13(2), 18(2). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or both: see reg 18(2).

8 Ie a duty under *ibid* reg 9(3)(b): see PARA 211.

9 *Ibid* reg 13(3), 18(2). As to the penalty see reg 18(2).

10 Ie for the purposes of *ibid* reg 5(2), 6(2), 9(1)(b)(iii), or reg 9(1)(b)(ii) as applied by reg 9(3)(a).

11 Ie for the purposes of *ibid* reg 9(3)(b).

12 *Ibid* reg 13(4), 18(2). As to the penalty see reg 18(2).

13 For the meaning of 'negative error' see PARA 209.

14 For the meaning of 'tolerable negative error' see PARA 209.

15 SI 2006/659 reg 14(1), 18(1). As to the penalty see reg 18(1).

- 16 For the meaning of 'batch' see PARA 209.
- 17 For the meaning of 'reference test' see PARA 209.
- 18 Ie the requirements of SI 2006/659 reg 4: see PARA 209.
- 19 For the meaning of 'nominal quantity' see PARA 209.
- 20 SI 2006/659 reg 14(2), 18(1). As to the penalty see reg 18(1). It is a defence to prove that a person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence: reg 19(4).
- 21 Ibid reg 17.

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(ii) Enforcement by Local Weights and Measures Authority

214. General duty to enforce.

It is the duty of a local weights and measures authority¹ to enforce the provisions relating to packaged goods² within the area of the authority³.

- 1 For the meaning of 'local weights and measures authority' see PARA 20 ante.
- 2 Ie the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended).
- 3 Ibid s 52(1).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

214 General duty to enforce

TEXT AND NOTES--Replaced.

Subject as follows, it is the duty of a local weights and measures authority¹ to enforce the provisions relating to packaged goods² within the area of the authority³. Proceedings for an offence under the provisions relating to packaged goods must not be instituted except by or on behalf of a local weights and measures authority⁴, with

the exception that proceedings for a specified offence⁵ must not be instituted in England or Wales except by or on behalf of the Director of Public Prosecutions⁶. Proceedings for any other offence under the provisions relating to packaged goods must not be instituted after the expiration of the period of twelve months beginning with the date when the offence was committed⁷. Other provisions confer powers on inspectors⁸ and local weights and measures authorities⁹.

- 1 For the meaning of 'local weights and measures authority' see PARA 20.
- 2 Ie the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.
- 3 Ibid reg 10(1).
- 4 Ibid reg 10(2).
- 5 See ibid reg 16: para 219.
- 6 Ibid reg 10(3).
- 7 Ibid reg 10(4).
- 8 For the meaning of 'inspector' see PARA 212.
- 9 Ibid reg 10(5), Sch 7: see PARAS 215-218.

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215. Powers of entry and inspection.

An inspector¹ may, within the area for which he is appointed an inspector and on production if so requested of his credentials², at all reasonable times:

- 828 (1) enter any premises³, except premises used only as a private dwelling house, as to which he has reasonable cause to believe that packages⁴ are made up on the premises or that imported packages belonging to the importer⁵ of them are on the premises or that regulated packages⁶ intended for sale are on the premises⁷;
- 829 (2) inspect and test any equipment which he has reasonable cause to believe is used in making up packages in the United Kingdom or in carrying out a check⁸;
- 830 (3) inspect, and measure in such manner as he thinks fit, any thing which he has reasonable cause to believe is or contains or is contained in a package and, if he considers it necessary to do so for the purpose of inspecting the thing or anything in it, break it open⁹;
- 831 (4) inspect and take copies of, or of any thing purporting to be, a record, document or certificate¹⁰;
- 832 (5) require any person on premises which the inspector is authorised to enter by virtue of head (1) above to provide such assistance as the inspector reasonably considers necessary to enable the inspector to exercise effectively any power conferred on him by heads (1) to (4) above¹¹;
- 833 (6) require any person to give to the inspector such information as the person possesses about the name and address of the packer¹² and of any importer of a package which the inspector finds on premises he has duly¹³ entered¹⁴.

Any person who without reasonable cause fails to comply with a requirement made of him in pursuance of head (5) or head (6) above is guilty of an offence and liable to a penalty¹⁵.

If a justice of the peace, on sworn information in writing:

- 834 (a) is satisfied that there is reasonable ground to believe that a package or a thing containing a package, or any such equipment, record, document or certificate as is mentioned above¹⁶, is on any premises or that an offence¹⁷ is being or is about to be committed on any premises¹⁸; and
- 835 (b) is also satisfied that admission to the premises has been refused or that a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier¹⁹ or that an application for admission or the giving of such a notice would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return²⁰,

the justice may by warrant under his hand, which continues in force for a period of one month, authorise an inspector to enter the premises if need be by force²¹.

An inspector so entering any premises may take with him such other persons and such equipment as he considers necessary²².

It is the duty of an inspector who leaves premises which he has entered²³ and which are unoccupied or from which the occupier is temporarily absent to leave the premises as effectively secured against trespassers as he found them²⁴.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

2 For the meaning of 'credentials' see PARA 27 note 1 ante.

3 As to the meaning of 'premises' see PARA 27 note 5 ante.

4 For the meaning of 'package' see PARA 207 ante.

5 For the meaning of 'importer' see PARA 205 note 19 ante.

6 For the meaning of 'regulated package' see PARA 209 note 3 ante.

7 Weights and Measures Act 1985 s 53, Sch 8 para 1(a). An inspector who entered the garden of a private dwelling house to weigh coal being delivered there exceeded his powers of entry: *Brunner v Williams* (1975) 73 LGR 266, DC; *Robson v Hallett* [1967] 2 QB 939, [1967] 2 All ER 407, DC. Entry is not restricted to circumstances where there is a person to whom credentials can be produced: *Grove v Eastern Gas Board* [1952] 1 KB 77, [1951] 2 All ER 1051, CA.

8 Weights and Measures Act 1985 Sch 8 para 1(b). The check referred to in the text is a check mentioned in s 49(1), (2): see PARA 211 ante. For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

9 Ibid Sch 8 para 1(c).

10 Ibid Sch 8 para 1(d). The certificate referred to in the text is that mentioned in s 49(1)-(3): see PARA 211 ante.

11 Ibid Sch 8 para 1(e).

12 For the meaning of 'packer' see PARA 205 note 18 ante.

13 Ie by virtue of the Weights and Measures Act 1985 s 53, Sch 8 para 1 or Sch 8 para 2.

14 Ibid Sch 8 para 1(f).

15 Ibid s 84(6), Sch 8 para 7. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 8 para 7. As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

16 Ie in ibid Sch 8 para 1.

17 Ie an offence under ibid s 50 (see PARA 213 ante) or s 63 (as amended) (see PARA 220 post).

18 Ibid Sch 8 para 2(a).

19 For the meaning of 'occupier' see PARA 27 note 16 ante.

20 Weights and Measures Act 1985 Sch 8 para 2(b).

21 Ibid Sch 8 para 2.

22 Ibid Sch 8 para 3(1). It is an offence for an inspector or a person who accompanied an inspector by virtue of Sch 8 para 3(1) to disclose information relating to a trade secret or secret manufacturing process obtained by virtue of Pt V (ss 47-68) (as amended) unless made in performance of his duty: see s 64(1)(b) (as amended); and PARA 219 head (2) post.

23 Ie by virtue of ibid Sch 8 para 2 (see the text to note 21 supra).

24 Ibid Sch 8 para 3(2).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

215 Powers of entry and inspection

TEXT AND NOTES 1-14--1985 Act Sch 8 para 1 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, Sch 7 para 1.

TEXT AND NOTE 8--The check referred to in the text is now a check mentioned in ibid reg 9(1), (3) (see PARA 211): Sch 7 para 1(b).

TEXT AND NOTE 10--Now head (4) inspect and take copies of, or of any thing purporting to be a record, document, or certificate of a kind mentioned in ibid regs 5(2) (see PARA 210), 9(1) or 9(3)(a) or evidence of a kind mentioned in reg 9(3)(b) or 9(4) (see PARA 211): Sch 7 para 1(d).

TEXT AND NOTE 15--1985 Act Sch 8 para 7 now SI 2006/659 Sch 7 para 7.

TEXT AND NOTES 16-24--1985 Act Sch 8 paras 2, 3 now SI 2006/659 Sch 7 paras 2, 3.

NOTE 17--Now refers to an offence under ibid regs 12-15: Sch 7 para 2.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(ii) Enforcement by Local Weights and Measures Authority/216. Power of seizure.

216. Power of seizure.

Where an inspector¹ has reasonable cause to believe that an offence² has been committed and that any equipment, record, document, package³ or thing containing or contained in a package may be required as evidence in proceedings for the offence, he may seize it and detain it for as long as it is so required⁴.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

2 ie an offence under the Weights and Measures Act 1985 s 50 (see PARA 213 ante), s 54 (see PARA 212 ante), s 63 (see PARA 220 post) or s 53, Sch 8 (see PARAS 196-197, 215 ante).

3 For the meaning of 'package' see PARA 207 ante.

4 Weights and Measures Act 1985 Sch 8 para 4.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

216 Power of seizure

TEXT AND NOTES--1985 Act Sch 8 para 4 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, Sch 7 para 4.

NOTE 2--Now refers to an offence under *ibid* regs 12-15: Sch 7 para 4.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(ii) Enforcement by Local Weights and Measures Authority/217. Power to require information.

217. Power to require information.

An inspector¹ may serve, on any person carrying on business as the packer² or importer³ of packages⁴ in the area for which the inspector is appointed an inspector, a notice requiring that person:

- 836 (1) to furnish the inspector from time to time with particulars of the kind specified in the notice of any marks which are applied⁵ from time to time to packages made up in that area by that person or, as the case may be, to packages imported by him, for the purpose of enabling the place where the packages were made up to be ascertained⁶; and
- 837 (2) if the person has furnished particulars of a mark⁷ in pursuance of the notice and the mark ceases to be applied to such packages for that purpose, to give notice of the cesser to the inspector⁸.

A notice so given by an inspector does not require a person to furnish information which he does not possess⁹.

Any person who without reasonable cause fails to comply with a requirement made of him in pursuance of these provisions is guilty of an offence and liable to a penalty¹⁰.

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

2 For the meaning of 'packer' see PARA 205 note 18 ante.

3 For the meaning of 'importer' see PARA 205 note 19 ante.

4 For the meaning of 'package' see PARA 207 ante.

5 le otherwise than in pursuance of the Weights and Measures Act 1985 s 48(1)(c): see PARA 210 head (3) ante.

6 Ibid s 53, Sch 8 para 5(1)(a).

7 As to the meaning of 'mark' see PARA 28 note 10 ante.

8 Weights and Measures Act 1985 Sch 8 para 5(1)(b). As to service of notices see PARA 225 post.

9 Ibid Sch 8 para 5(2).

10 Ibid s 84(6), Sch 8 para 7. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6), Sch 8 para 7. As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post; and as to offences by corporations see PARA 230 post.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

217 Power to require information

TEXT AND NOTES--1985 Act Sch 8 paras 5, 7 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659 Sch 7 paras 5, 7.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(ii) Enforcement by Local Weights and Measures Authority/218. Purchase of goods.

218. Purchase of goods.

A local weights and measures authority¹ has power to purchase goods, and to authorise any of its officers to purchase goods on behalf of the authority, for the purpose of ascertaining whether an offence² has been committed³.

If an inspector⁴ breaks open a package⁵ otherwise than on premises occupied by the packer⁶ or importer⁷ of the package and the package is not inadequate⁸, it is the duty of the inspector, if the owner of the package requests him to do so, to buy the package on behalf of the local weights and measures authority for the area in which he broke it open⁹.

1 For the meaning of 'local weights and measures authority' see PARA 20 ante.

2 Ie an offence under the Weights and Measures Act 1985 s 50 (see PARA 213 ante), s 54(2) (see PARA 212 ante) or s 63 (see PARA 220 post).

3 Ibid s 53, Sch 8 para 6(1).

4 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

5 Ie in pursuance of the Weights and Measures Act 1985 Sch 8 para 1(c); see PARA 215 head (3) ante. For the meaning of 'package' see PARA 207 ante.

6 For the meaning of 'packer' see PARA 205 note 18 ante.

7 For the meaning of 'importer' see PARA 205 note 19 ante.

8 As to the meaning of 'inadequate' see PARA 213 note 12 ante.

9 Weights and Measures Act 1985 Sch 8 para 6(2).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

218 Purchase of goods

TEXT AND NOTES--1985 Act Sch 8 para 6 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, Sch 7 para 6.

NOTE 2--Now refers to an offence under *ibid* regs 12-15: Sch 7 para 6(1).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(ii) Enforcement by Local Weights and Measures Authority/219. Disclosure of information.

219. Disclosure of information.

If a person discloses information which:

- 838 (1) relates to a trade secret or secret manufacturing process¹; and
- 839 (2) was obtained by him² when he was an inspector³, a person who accompanied an inspector⁴ or a person appointed by the Secretary of State⁵,

he is guilty of an offence and liable to a penalty, unless the disclosure was made in the performance of his duty as an inspector or other person mentioned in head (2) above, or, in the case of an inspector, was made to the Secretary of State in consequence of a request by him⁶.

1 Weights and Measures Act 1985 s 64(1)(a).

2 *Ie* by virtue of Pt V (ss 47-68) (as amended): see PARA 205 *et seq* ante.

3 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

4 *Ie* by virtue of the Weights and Measures Act 1985 s 53, Sch 8 para 3(1): see PARA 215 ante.

5 *Ibid* s 64(1)(b) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 8). The appointment referred to in the text is an appointment in pursuance of the Weights and Measures Act 1985 s 59(4)(b)(iii): see PARA 224 head (b)(iii) post. As to the Secretary of State see PARA 16 ante.

6 See *ibid* s 64(1) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 8); Weights and Measures Act 1985 s 84(5). The penalty on conviction on indictment is imprisonment for a term not exceeding two years or a fine, or both, and on summary conviction is a fine not exceeding the statutory maximum: see s 64(1), 84(5) (s 64(1) as so amended). As to the statutory maximum see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post; and as to offences by corporations see PARA 230 post.

For the purposes of s 64(1) (as amended), information disclosing the identity of the packer of a package or the identity of the person who arranged with the packer of a package for the package to be made up is to be treated as a trade secret unless the information has previously been disclosed in a manner which made it available to the public: s 64(2). For the meaning of 'packer' see PARA 205 note 18 ante; and for the meaning of 'package' see PARA 207 ante.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

219 Disclosure of information

TEXT AND NOTES--1985 Act s 64 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 16. Regulation 16(1) is subject to reg 16(3) which provides that it is not an offence under reg 16(1) for a person to disclose information in circumstances where the person from whom the public authority received the information has consented to its disclosure or the information is disclosed more than 50 years after it was received by the public authority. A person guilty of an offence under reg 16(1) is liable on summary conviction to a fine not exceeding the statutory maximum, and on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both: reg 18(1).

NOTE 4--Now by virtue of *ibid* Sch 7 para 3: reg 16(1)(b).

TEXT AND NOTE 5--Words 'or a person ... Secretary of State' omitted: *ibid* reg 16(1).

TEXT AND NOTE 6--Words 'or, in the case of an inspector ...him' omitted: *ibid* reg 16(1).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(ii) Enforcement by Local Weights and Measures Authority/220. Instructions by inspectors.

220. Instructions by inspectors.

If an inspector¹ has reasonable cause to believe that a person has failed to perform the duty imposed on him² as a packer³ or importer⁴ in relation to a group of packages⁵, the inspector may give to the person in possession of the packages instructions in writing:

- 840 (1) specifying the packages⁶; and
- 841 (2) requiring that person to keep the packages at a place specified in the instructions and at the disposal of the inspector for the period of 24 hours beginning with the time when the inspector gives him the instructions or for such shorter period as the inspector may specify⁷.

If an inspector has reasonable cause to believe that a person has failed to perform the duty imposed on him to use suitable equipment, carry out the required checks and to obtain the required documentation⁸, the inspector may give to that person such instructions in writing as the inspector considers appropriate with a view to ensuring that that person does not subsequently fail to perform that duty⁹. Instructions so given to a person by an inspector do not come into force until the expiration of 21 days beginning with the day when the instructions are given to him; and if during that period that person gives notice to the inspector that he objects to the instructions, they do not come into force except as agreed in writing by that person or as

directed by the Secretary of State¹⁰. Where a person so gives to an inspector notice of objection to instructions, it is the duty of the inspector to refer the instructions to the Secretary of State¹¹. Where instructions are so referred to the Secretary of State, it is his duty¹²:

- 842 (a) to invite representations in writing about the instructions from the inspector who gave them and from the person to whom they were given¹³;
- 843 (b) to consider any representations made in response to the invitations within the periods specified in the invitations¹⁴;
- 844 (c) to direct that the instructions are to come into force, without modifications¹⁵ or with modifications specified in the direction, on a day so specified or that they are not to come into force¹⁶; and
- 845 (d) to give notice of the direction to the inspector and to the person in question¹⁷.

Where instructions have been given to a person¹⁸, or instructions given to a person¹⁹ have come into force (or have come into force with modifications)²⁰, he is guilty of an offence and liable to a penalty²¹ if without reasonable cause he fails to comply with those instructions (or, as the case may require, those instructions with modifications)²².

1 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

2 Ie by the Weights and Measures Act 1985 s 47(1): see PARA 209 ante.

3 For the meaning of 'packer' see PARA 205 note 18 ante.

4 For the meaning of 'importer' see PARA 205 note 19 ante.

5 For the meaning of 'package' see PARA 207 ante.

6 Weights and Measures Act 1985 s 63(1)(a).

7 Ibid s 63(1)(b).

8 Ie by ibid s 49(1) or (2): see PARA 211 ante.

9 Ibid s 63(2).

10 Ibid s 63(3); Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 9. As to the Secretary of State see PARA 16 ante.

11 Weights and Measures Act 1985 s 63(4) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 7).

12 Weights and Measures Act 1985 s 63(6) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, Schedule para 7).

13 Weights and Measures Act 1985 s 63(6)(a) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, Schedule para 7).

14 Weights and Measures Act 1985 s 63(6)(b).

15 As to the meaning of 'modifications' see PARA 206 note 5 ante.

16 Weights and Measures Act 1985 s 63(6)(c).

17 Ibid s 63(6)(d) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, Schedule para 7).

18 Ie under the Weights and Measures Act 1985 s 63(1) (see the text and notes 1-7 supra).

19 Ie under ibid s 63(2) (see the text and note 9 supra).

20 le in accordance with *ibid* s 63(3), (4), (6) (as amended).

21 The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see *ibid* ss 63(7), 84(6). As to the standard scale see PARA 229 note 1 post. As to offences by corporations see PARA 230 post; and as to prosecution of offences see PARA 226 post.

22 *Ibid* ss 63(7), 84(6).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

220 Instructions by inspectors

TEXT AND NOTES--1985 Act s 63 now Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659, reg 12.

NOTE 2--Now by *ibid* reg 4 (see PARA 209): reg 12(1).

TEXT AND NOTE 5--Reference to a 'group' is now to a 'batch': *ibid* reg 12(1). For the meaning of 'batch' see PARA 209.

TEXT AND NOTE 7--For 'for the period ... instructions' read 'until the end of the next working day after the instructions have been issued': *ibid* reg 12(1)(b).

NOTE 8--Now by *ibid* reg 9(1) or 9(3): reg 12(2).

TEXT AND NOTES 18-22--1985 Act s 63(7) now SI 2006/659 reg 12(6). A person guilty of an offence under reg 12(6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale: reg 18(1).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(iii) Co-ordination of Control/221. General duties of the Secretary of State.

(iii) Co-ordination of Control

221. General duties of the Secretary of State.

It is the duty of the Secretary of State¹:

- 846 (1) to keep under review the operation of the provisions relating to packaged goods² and to carry out such research in connection with the review as the Secretary of State considers appropriate³;
- 847 (2) to make available, to local weights and measures authorities⁴ and to packers⁵ and importers⁶ of packages⁷, such information as the Secretary of State considers appropriate in connection with the operation of the provisions relating to packaged goods⁸;
- 848 (3) to give advice to local weights and measures authorities about arrangements to be made by them for the purpose of enforcing the provisions relating to packaged goods within their areas and about such other matters as the Secretary of State considers appropriate in connection with the operation of those provisions⁹;
- 849 (4) to seek to collaborate, with any authority in a place outside Great Britain appearing to the Secretary of State to have functions which correspond to those of the Secretary of State or to those conferred on a local weights and measures authority by the provisions relating to packaged goods, about matters which are connected with packages and are of interest to the Secretary of State and the authority¹⁰;
- 850 (5) to make and maintain a record of the names and addresses of packers and importers of packages and of the kinds of packages which they make up or import, and the marks¹¹ of which particulars have been furnished¹² by them¹³;
- 851 (6) to make and maintain a record of the names and addresses of persons who make measuring container bottles¹⁴ in any member state of the European Community and of the marks put on the bottles for the purpose of enabling the makers of them to be identified¹⁵.

1 Weights and Measures Act 1985 s 56(1) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 2). As to the Secretary of State see PARA 16 ante.

2 I.e the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): see PARA 205 et seq ante.

3 Ibid s 56(1)(a) (as amended: see note 1 supra).

4 For the meaning of 'local weights and measures authority' see PARA 20 ante.

5 For the meaning of 'packer' see PARA 205 note 18 ante.

6 For the meaning of 'importer' see PARA 205 note 19 ante.

7 For the meaning of 'package' see PARA 207 ante.

8 Weights and Measures Act 1985 s 56(1)(b) (as amended: see note 1 supra).

9 Ibid s 56(1)(c) (as amended: see note 1 supra).

10 Ibid s 56(1)(d) (as amended: see note 1 supra).

11 As to the meaning of 'mark' see PARA 28 note 10 ante.

12 I.e in pursuance of the Weights and Measures Act 1985 s 57 (as amended): see PARA 222 post.

13 Ibid s 56(1)(f).

14 For these purposes, 'measuring container bottle' has the same meaning as in the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932 (as amended) (see PARA 91 ante) or, if regulations so provide, such other meaning as is prescribed: Weights and Measures Act 1985 s 56(2). For the meaning of 'regulations' see PARA 206 note 1 ante. 'Prescribed' means prescribed by the Secretary of State by regulations: s 94(1). At the date at which this volume states the law, no regulations had been made prescribing another meaning. As to the making of regulations generally see PARA 3 ante.

15 Ibid s 56(1)(g).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(iii) Co-ordination of Control/222. Secretary of State's power to require packers and importers to furnish particulars of marks.

222. Secretary of State's power to require packers and importers to furnish particulars of marks.

The Secretary of State¹ may serve, on any person carrying on business as a packer² or importer³ of packages⁴, a notice⁵ requiring him:

- 852 (1) to furnish the Secretary of State from time to time with particulars of the kind specified in the notice of any marks⁶ which are applied⁷ from time to time to packages made up or, as the case may be, imported by him, for the purpose of enabling the place where the packages were made up to be ascertained⁸; and
- 853 (2) if he has furnished particulars of a mark in pursuance of the notice and the mark ceases to be applied for that purpose to packages made up or imported by him, to give notice of the cesser to the Secretary of State⁹.

A notice so given by the Secretary of State does not require a person to furnish information which he does not possess¹⁰.

A person who without reasonable cause fails to comply with a notice so served on him is guilty of an offence and liable to a penalty¹¹.

1 As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'packer' see PARA 205 note 18 ante.

3 For the meaning of 'importer' see PARA 205 note 19 ante.

4 For the meaning of 'package' see PARA 207 ante.

5 For the meaning of 'notice' see PARA 212 note 19 ante. As to service of notices see PARA 225 post.

6 As to the meaning of 'mark' see PARA 28 note 10 ante.

7 le otherwise than in pursuance of the Weights and Measures Act 1985 s 48(1)(c): see PARA 210 head (3) ante.

8 Ibid s 57(1)(a) (s 57(1) amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 3).

9 Weights and Measures Act 1985 s 57(1)(b) (as amended: see note 8 supra).

10 Ibid s 57(1) (as amended: see note 8 supra). As to the duty of the Secretary of State to keep certain records relating to marks particulars of which have been furnished in accordance with the Weights and Measures Act 1985 s 57 (as amended) see s 56(1)(f); and PARA 221 head (5) ante.

11 Ibid ss 57(2), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 57(2), 84(6). As to the standard scale see PARA 229 note 1 post. As to prosecution of offences see PARA 226 post; and as to offences by corporations see PARA 230 post.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(iii) Co-ordination of Control/223. Secretary of State's duty to prepare scheme allocating marks.

223. Secretary of State's duty to prepare scheme allocating marks.

It is the duty of the Secretary of State¹:

- 854 (1) if he thinks fit, to prepare a scheme which allocates, to persons carrying on business as packers² or importers³ of packages⁴, marks⁵ from which there can be ascertained the places where packages made up or imported by them were made up and specifies the kinds of packages to which each mark is to be applied⁶;
- 855 (2) to make from time to time such alterations of the scheme as the Secretary of State considers appropriate⁷;
- 856 (3) to give, to each person to whom a mark is for the time being allocated by the scheme, a notice which specifies the mark, states that it has been allocated to him in pursuance of the scheme, and specifies the kinds of packages to which it is to be applied⁸.

1 Weights and Measures Act 1985 s 58 (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 4). As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'packer' see PARA 205 note 18 ante.

3 For the meaning of 'importer' see PARA 205 note 19 ante.

4 For the meaning of 'package' see PARA 207 ante.

5 As to the meaning of 'mark' see PARA 28 note 10 ante.

6 Weights and Measures Act 1985 s 58(a) (s 58(a), (b) amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 4). At the date at which this volume states the law, no such scheme had been prepared by the Secretary of State.

7 Weights and Measures Act 1985 s 58(b) (as amended: see note 6 supra).

8 Ibid s 58(c).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(iii) Co-ordination of Control/224. Supervision by the Secretary of State of certain functions of inspectors.

224. Supervision by the Secretary of State of certain functions of inspectors.

The Secretary of State¹ may serve on any local weights and measures authority² a notice³ requiring the authority⁴:

857 (1) to furnish the Secretary of State with information of such a kind as is specified in the notice (and, if the notice so provides, relating only to persons so specified or packages⁵ or measuring container bottles⁶ of a kind so specified) with respect to relevant functions⁷ which inspectors⁸ appointed by the authority have performed or propose to perform during a period so specified⁹; or

858 (2) to arrange for the performance by an inspector, in relation to persons, premises¹⁰ or equipment specified in the notice or packages or measuring container bottles of a kind so specified and during a period so specified, of such relevant functions as are so specified and to make to the Secretary of State a report containing information of a kind so specified about the results of complying with the notice¹¹,

and it is the duty¹² of the authority to comply with the requirements of the notice¹³.

If the Secretary of State is of the opinion that a local weights and measures authority has not complied with a requirement contained in a notice so served on the authority, he may¹⁴:

- 859 (a) serve a notice on the authority requiring it to comply with the requirement within a period specified in the notice¹⁵; or
- 860 (b) in the case of a requirement in pursuance of head (2) above:
- 23
26. (i) make such arrangements as the Secretary of State considers appropriate for securing that the requirement is complied with by persons acting on his behalf¹⁶;
27. (ii) serve on the authority a notice stating that he proposes to make the arrangements and prohibiting the authority from complying with the requirement¹⁷;
28. (iii) by an instrument in writing appoint a person specified in the instrument to be an inspector for the purpose of carrying out the arrangements and to exercise accordingly for that purpose any power which is conferred¹⁸ on an inspector¹⁹; and
29. (iv) recover from the authority the reasonable cost of making and carrying out the arrangements²⁰.
- 24

1 As to the Secretary of State see PARA 16 ante.

2 For the meaning of 'local weights and measures authority' see PARA 20 ante.

3 For the meaning of 'notice' see PARA 212 note 19 ante.

4 Weights and Measures Act 1985 s 59(1) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 5).

5 For the meaning of 'package' see PARA 207 ante.

6 For these purposes, 'measuring container bottle' has the meaning given by the Weights and Measures Act 1985 s 56(2) (see PARA 221 note 14 ante): s 59(5).

7 For these purposes, 'relevant functions' means: (1) the function of carrying out a test in pursuance of *ibid* s 47(1) (see PARA 209 ante); (2) functions conferred on an inspector by s 53, Sch 8 para 1 (see PARA 215 ante) and Sch 8 para 5 (see PARA 217 ante) and by the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 8(1) (inspection for the purposes of those regulations: see PARA 91 ante); and (3) such other functions conferred on an inspector by the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended) (see PARA 205 et seq ante) as are prescribed: s 59(2), (5). 'Prescribed' means prescribed by the Secretary of State by regulations: Weights and Measures Act 1985 s 94(1). As to the making of regulations generally see PARA 3 ante.

8 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.

9 Weights and Measures Act 1985 s 59(1)(a) (s 59(1)(a), (b) amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, art 2(b), Schedule para 5).

10 As to the meaning of 'premises' see PARA 27 note 5 ante.

11 Weights and Measures Act 1985 s 59(1)(b) (as amended: see note 9 supra). In relation to a notice served in pursuance of s 59(1)(b) (as amended) the inspector in question is treated as having such reasonable cause as is mentioned in Sch 8 para 1(a), (b) (see PARA 215 heads (1), (2) ante) and the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932, reg 8(1)(b) (see PARA 91 ante): Weights and Measures Act 1985 s 59(3), (5).

12 *Ie* subject to *ibid* s 59(4)(b)(ii): see head (b)(ii) in the text.

13 *Ibid* s 59(1).

14 *Ibid* s 59(4) (amended by the National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187, Schedule para 5).

15 Weights and Measures Act 1985 s 59(4)(a).

16 *Ibid* s 59(4)(b)(i).

17 *Ibid* s 59(4)(b)(ii).

18 le by virtue of *ibid* Pt V (as amended) or the Measuring Container Bottles (EEC Requirements) Regulations 1977, SI 1977/932 (as amended).

19 Weights and Measures Act 1985 s 59(4)(b)(iii).

20 *Ibid* s 59(4)(iv).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see *LOCAL GOVERNMENT* vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/7. PACKAGED GOODS/(3) ENFORCEMENT OF CONTROL/(iv) Service of Documents/225. Manner in which documents are to be served.

(iv) Service of Documents

225. Manner in which documents are to be served.

Any document required or authorised¹ to be served on a person may be so served:

- 861 (1) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address²; or
- 862 (2) if the person is a body corporate, by serving it in accordance with head (1) above on the secretary or clerk of that body³; or
- 863 (3) if the person is a partnership, by serving it in accordance with head (1) above on a partner or on a person having the control or management of the partnership business⁴.

1 le by virtue of the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): see PARA 205 et seq ante.

2 *Ibid* s 67(1)(a). For the purposes of s 67(1) and of the Interpretation Act 1978 s 7 (which relates to the service of documents by post: see *STATUTES* vol 44(1) (Reissue) PARA 1388) in its application to the Weights and Measures Act 1985 s 67(1), the proper address of any person on whom a document is to be served by virtue of Pt V (as amended) is his last known address except that:

10 (1) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body; and

11 (2) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the principal office of the partnership,

and, for these purposes, the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom: s 67(2). For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

3 Ibid s 67(1)(b).

4 Ibid s 67(1)(c).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

205-225 Application of the statutory provisions ... Manner in which documents are to be served

Weights and Measures Act 1985 Pt V (ss 47-68), Sch 8 replaced by Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/226. Prosecution of offences.

8. CRIMINAL PROCEEDINGS

(1) PROSECUTION OF OFFENCES

226. Prosecution of offences.

In England and Wales¹, proceedings for any offence under the Weights and Measures Act 1985 or any instrument made thereunder, other than proceedings for an offence relating to disclosure of information², may not be instituted except by or on behalf of a local weights and measures authority³ or the chief officer of police for a police area⁴.

Proceedings for an offence by a person who without reasonable cause fails to furnish particulars of a mark⁵ may not be instituted in England or Wales except by or on behalf of the Director of Public Prosecutions⁶.

Proceedings for an offence under any provision contained in, or having effect by virtue of, the provisions relating to regulating transactions in goods⁷ or packaged goods⁸ or proceedings in respect of offences due to the default of third persons⁹, may not be instituted:

- 864 (1) unless there has been served on the person charged a notice in writing of the date and nature of the offence alleged and¹⁰, where the proceedings are in respect of one or more of a number of articles of the same kind tested on the same occasion, of the results of the tests of all those articles¹¹; or
- 865 (2) except where the person charged is a street trader¹², unless such notice was served before the expiration of the period of 30 days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge¹³; or

866 (3) after the expiration of the period of 12 months beginning with the date mentioned in head (1) above or of three months beginning with the date mentioned in head (2) above, whichever first occurs¹⁴.

Such a notice as is mentioned in head (1) above may be served on any person either by serving it on him personally or by sending it to him by post at his usual or last known residence or place of business in the United Kingdom¹⁵ or, in the case of a company, at the company's registered office¹⁶.

1 For the meanings of 'England' and 'Wales' see PARA 11 note 1 ante.

2 Ie an offence under the Weights and Measures Act 1985 s 64 (as amended): see PARA 219 ante.

3 For the meaning of 'local weights and measures authority' see PARA 20 ante.

4 Weights and Measures Act 1985 s 83(1). As to when proceedings are begun see *Beardsley v Giddings* [1904] 1 KB 847, DC; *Brooks v Bagshaw* [1904] 2 KB 798, DC (proceedings are begun on the day the information is laid, not on the day the summons is served). A local weights and measures authority may delegate its power to institute proceedings to an officer of the council: see the Local Government Act 1972 s 101 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 370 et seq.

5 Ie an offence under the Weights and Measures Act 1985 s 57(2): see PARA 222 ante.

6 Ibid s 83(2). As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq. Section 83(2) provides that such proceedings may also be instituted by or on behalf of the National Metrological Co-ordinating Unit but that Unit was abolished on 1 January 1988: see PARA 18 ante.

7 Ie an offence under ibid Pt IV (ss 21-46) (as amended) (see PARA 105 et seq ante), other than s 33(6) (see PARA 233 post).

8 Ie an offence under ibid Pt V (ss 47-68) (as amended) (see PARA 205 et seq ante), other than s 57(2) (see PARA 222 ante) or s 64 (as amended) (see PARA 219 ante).

9 Ie proceedings by virtue of ibid s 32: see PARA 231 post.

10 Ie except in the case of an offence under ibid s 50 (see PARA 213 ante), s 54 (see PARA 212 ante), s 63 (as amended) (see PARA 220 ante) or s 53, Sch 8 (see PARA 215 et seq ante).

11 Ibid s 83(3)(a). For the purposes of s 83(3): (1) a certificate of a person who institutes proceedings for an offence mentioned in s 83(3) which states that evidence came to his knowledge on a particular date is conclusive evidence of that fact; and (2) a document purporting to be a certificate of such a person and to be signed by him or on his behalf is to be presumed to be such a certificate unless the contrary is proved: s 83(5).

12 The expression 'street trader' is not defined in the Weights and Measures Act 1985; but cf the City of London (Various Powers) Act 1965, where 'street trading' means the selling or exposing or offering for sale of any article or thing in a street (s 12), 'article or thing' includes any living thing (s 12) and 'street' means any street, way or place over which the public has a right of passage or any part (being a part over which the public has a right of passage) of any street, way or place (s 3(1)). As from a day to be appointed, s 12 is repealed by the City of London (Various Powers) Act 1987 s 25(2), Schedule Pt II. At the date this volume states the law, no such day had been appointed.

13 Weights and Measures Act 1985 s 83(3)(b).

14 Ibid s 83(3)(c).

15 For the meaning of 'United Kingdom' see PARA 20 note 6 ante.

16 Weights and Measures Act 1985 s 83(4). As to a company's registered office see COMPANIES vol 14 (2009) PARAS 129-130. Service by post may be effected by ordinary or registered post or the recorded delivery service: Recorded Delivery Service Act 1962 s 1(1); *TO Supplies (London) Ltd v Jerry Creighton Ltd* [1952] 1 KB 42, [1951] 2 All ER 992.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

226 Prosecution of offences

TEXT AND NOTE 2--Words 'other ... information' omitted: 1985 Act s 83(1) (amended by the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659).

TEXT AND NOTES 5, 6--1985 Act s 83(2) repealed: SI 2006/659.

NOTE 10--Omitted: 1985 Act s 83(3) (amended by SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/227. Restriction on institution of certain proceedings.

227. Restriction on institution of certain proceedings.

Where any act or omission constitutes both an offence under the Trade Descriptions Act 1968¹ and an offence under any provision contained in or having effect by virtue of Part IV of the Weights and Measures Act 1985², proceedings for the offence may not be instituted under the Trade Descriptions Act 1968³ without the service of the requisite notice⁴ nor after the expiration of the specified period⁵.

1 As to the Trade Descriptions Act 1968 see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 471 et seq.

2 Ie the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

3 Ie except by virtue of the Trade Descriptions Act 1968 s 23: see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 503.

4 Ie such a notice as is required by the Weights and Measures Act 1985 s 83(3): see PARA 226 ante.

5 Trade Descriptions Act 1968 s 22(1)(a) (amended by the Weights and Measures Act 1985 s 97, Sch 12 para 3(a), (b)). The specified period is that mentioned in the Weights and Measures Act 1985 s 83(3)(c) (see PARA 226 head (3) ante): Trade Descriptions Act 1968 s 22(1)(a) (as so amended).

The Weights and Measures Act 1985 s 35 (see PARA 235 post), s 36 (see PARA 236 post) and s 37(1), (2) (see PARA 237 post) apply, with the necessary modifications, as if the offence under the Trade Descriptions Act 1968 were an offence under the Weights and Measures Act 1985 Pt IV (as amended) or any instrument made thereunder: Trade Descriptions Act 1968 s 22(1)(b) (amended by the Weights and Measures Act 1985 Sch 12 para 3(a), (c)).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

227 Restriction on institution of certain proceedings

TEXT AND NOTES--Repealed. Provision for made for the prohibition of unfair commercial practices by the Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277; see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) PARA 725A.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/228. Determination of certain questions by the Secretary of State.

228. Determination of certain questions by the Secretary of State.

Where in any proceedings for an offence under the Weights and Measures Act 1985 or any instrument made thereunder, except proceedings for an offence under the provisions relating to packaged goods¹ or any instrument made thereunder, any question arises as to the accuracy of any weighing or measuring equipment², the court must at the request of any party to the proceedings, and may if it thinks fit without any such request, refer the question to the Secretary of State³, whose decision is final⁴.

Except where in any particular proceedings the Secretary of State waives his rights under this provision, any expenses incurred by the Secretary of State in making any test for the purpose of determining any question so referred to him must be paid by such of the parties to the proceedings as the court may by order direct⁵.

1 le the Weights and Measures Act 1985 Pt V (ss 47-68) (as amended): see PARA 205 et seq ante.

2 For the meaning of 'weighing or measuring equipment' see PARA 27 note 3 ante.

3 As to the Secretary of State see PARA 16 ante.

4 Weights and Measures Act 1985 s 85(1).

5 Ibid s 85(2).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

228 Determination of certain questions by the Secretary of State

TEXT AND NOTE 1--Words 'except ...thereunder' omitted: 1985 Act s 85(1) (amended by the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659).

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/229. Penalties and forfeiture.

229. Penalties and forfeiture.

Persons guilty of offences under the Weights and Measures Act 1985 are liable to a fine, and in some instances may be liable to imprisonment¹.

In addition, equipment used in the commission of an offence is liable to be forfeited².

¹ The penalty on summary conviction is a fine not exceeding level 3 on the standard scale in the case of an offence under the Weights and Measures Act 1985 s 8(4) (see PARA 46 ante), s 9(4) (see PARA 57 ante), s 10(2) (see PARA 48 ante), s 11(3) (see PARA 69 ante), s 11(14) (see PARA 69 ante), s 13(1) (see PARA 74 ante), s 13(2) (see PARA 74 ante), s 13(3) (see PARA 74 ante), s 14(3) (see PARA 76 ante), s 14(5) (see PARA 76 ante), s 15(3) (see PARA 67 ante), s 15(5) (see PARA 67 ante), s 15A(3) (as added) (see PARA 71 ante), s 18(3) (see PARA 100 ante), s 20(2) (see PARA 102 ante), s 20(4) (see PARA 102 ante), s 20(7) (see PARA 102 ante), s 20(8) (see PARA 102 ante), s 21, Sch 4 para 4 (see PARA 169 ante), Sch 4 para 5 (see PARA 169 ante), s 21, Sch 5 para 28(3) (repealed): see s 84(1), (2) (amended by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, art 4(2)).

In the case of an offence under the Weights and Measures Act 1985 Sch 5 para 24(4) (see PARA 185 ante), the penalty on summary conviction is a fine not exceeding £2,000: see s 84(3). The Secretary of State may by order alter the penalty imposed by s 84(3); but such an order may not impose any penalty exceeding that provided by s 84(6): s 84(7). As to the Secretary of State see PARA 16 ante.

In the case of an offence under s 17(3) (see PARA 99 ante), s 20(3)(b) (see PARA 102 head (b) ante), s 50(2), (3) or (4) (see PARA 213 ante) or Sch 5 para 10 (see PARA 179 ante), the penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both: see s 84(4).

In the case of an offence under s 64 (as amended) (see PARA 219 ante) or s 79(7) (see PARA 27 ante), the penalty on conviction on indictment is imprisonment for a term not exceeding two years or a fine, or both, or on summary conviction is a fine not exceeding the statutory maximum: see s 84(5).

In the case of an offence under any provision of the Weights and Measures Act 1985 other than those mentioned in s 84(1)-(5) (as amended), the penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see s 84(6).

'Standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142. At the date at which this volume states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Powers of Criminal Courts (Sentencing) Act 2000 s 128; and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 144. The 'statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 140. The 'prescribed sum' means £5,000 or such sum as is for the time being substituted in this definition by order under the Magistrates' Courts Act 1980 s 143(1) (as substituted): see s 32(9) (amended by the Criminal Justice Act 1991 s 17(2)); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 141.

² See the Weights and Measures Act 1985 s 8(4) (see PARA 46 ante), s 10(2) (see PARA 48 ante), s 11(3), (14) (see PARA 69 ante), s 13(1)-(3) (see PARA 74 ante), s 14(3), (5) (see PARA 76 ante), s 15(3), (5) (see PARA 67 ante), s 16(4) (see PARA 72 ante) and s 17(1), (3) (see PARA 99 ante).

Subject to any enactment relating to customs or excise, anything other than money forfeited on a conviction by a magistrates' court or the forfeiture of which may be enforced by a magistrates' court must be sold or otherwise disposed of in such manner as the court may direct; and the proceeds must be applied as if they were a fine imposed under the enactment on which the proceedings for the forfeiture are founded: see the Magistrates' Courts Act 1980 ss 140, 148(1); and MAGISTRATES vol 29(2) (Reissue) PARA 583; SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 149.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

229 Penalties and forfeiture

NOTE 1--References to 1985 Act ss 50, 64 omitted: s 84(4)(a), (5) (amended by the Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/230. Offences by corporations.

230. Offences by corporations.

Where an offence under, or under any instrument made under, the Weights and Measures Act 1985 which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director¹, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly².

¹ For these purposes, 'director', in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate: Weights and Measures Act 1985 s 82(2). As to directors generally see COMPANIES vol 14 (2009) PARA 478 et seq.

² Ibid s 82(1).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/231. Offences due to default of third person.

231. Offences due to default of third person.

Where the commission by any person of an offence under the provisions regulating transactions in particular goods¹ or any instrument made under them is due to the act or default of some other person², the other person is guilty of an offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person³.

1 le the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

2 For the meaning of 'act or default of another person' see *Lindley v George W Horner & Co Ltd* [1950] 1 All ER 234, DC; *Lamb v Sunderland and District Creamery Ltd* [1951] 1 All ER 923, DC; *Birkenhead and District Co-operative Society Ltd v Roberts* [1970] 3 All ER 391, [1970] 1 WLR 1497, DC. See also *Allied Domecq Leisure Ltd v Cooper* [1999] Crim LR 230 (care must be taken by the prosecution to ensure that 'the act or default' of the person who is to be held vicariously liable for the actions of another person is properly identified).

3 Weights and Measures Act 1985 s 32. See the Enterprise Act 2002 s 230 (notice to Office of Fair Trading of intended prosecution) which applies to proceedings for an offence under the Weights and Measures Act 1985 s 32 by virtue of the Enterprise Act 2002 (Part 8 Notice to OFT of Intended Prosecution Specified Enactments, Revocation and Transitional Provision) Order 2003, SI 2003/1376; and the Enterprise Act 2002 s 211(2) (domestic infringements) which applies to the Weights and Measures Act 1985 s 32 by virtue of the Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2003, SI 2003/1593. See generally COMPETITION vol 18 (2009) PARA 1 et seq.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(1) PROSECUTION OF OFFENCES/232. Appeals.

232. Appeals.

Any person convicted by a magistrates' court under the Weights and Measures Act 1985 may appeal to the Crown Court, where the appeal is by way of rehearing¹. Alternatively, any party to the proceedings or a person aggrieved² by a decision may appeal on a point of law by way of case stated to the High Court³.

1 See the Magistrates' Courts Act 1980 s 108 (as amended); *Sirros v Moore* [1975] QB 118, [1974] 3 All ER 776, CA; and MAGISTRATES vol 29(2) (Reissue) PARA 883. As to the Crown Court generally see COURTS vol 10 (Reissue) PARA 621 et seq.

2 For the meaning of 'person aggrieved' see JUDICIAL REVIEW vol 61 (2010) PARA 656.

3 See the Magistrates' Courts Act 1980 ss 111, 112; and MAGISTRATES vol 29(2) (Reissue) PARAS 885 et seq, 896. As to cases stated to the High Court see CIVIL PROCEDURE vol 12 (2009) PARA 1688 et seq; COURTS vol 10 (Reissue) PARA 309.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8.
CRIMINAL PROCEEDINGS/(2) DEFENCES/(i) Transactions in Goods/233. Defence of warranty.

(2) DEFENCES

(i) Transactions in Goods

233. Defence of warranty.

In any proceedings for an offence under the provisions regulating transactions in goods¹, or any instrument made thereunder, being an offence relating to the quantity or pre-packing² of any goods, it is a defence for the person charged to prove:

- 867 (1) that he bought the goods from some other person as being of the quantity which the person charged purported to sell or represented, or which was marked³ on any container⁴ or stated in any document to which the proceedings relate⁵, or as conforming with the statement marked on any container to which the proceedings relate, or with the requirements with respect to the pre-packing of goods⁶, as the case may require⁷; and
- 868 (2) that he so bought the goods with a written warranty from that other person that they were of that quantity or, as the case may be, did so conform⁸; and
- 869 (3) that at the time of the commission of the offence he did in fact believe the statement contained in the warranty to be accurate and had no reason to believe it to be inaccurate⁹; and
- 870 (4) if the warranty was given by a person who at the time he gave it was resident¹⁰ outside Great Britain¹¹ and any designated country¹², that the person charged had taken reasonable steps to check the accuracy of the statement contained in the warranty¹³; and
- 871 (5) in the case of proceedings relating to the quantity of any goods, that he took all reasonable steps to ensure that, while in his possession, the quantity of the goods remained unchanged and, in the case of such or any other proceedings, that apart from any change in their quantity the goods were at the time of the commission of the offence in the same state as when he bought them¹⁴.

A warranty is not, however, a defence in any such proceedings unless, not later than three days before the date of the hearing, the person charged has sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom the warranty was received, and has also sent a like notice to that person¹⁵.

The person by whom the warranty is alleged to have been given is entitled to appear at the hearing and to give evidence¹⁶.

If the person charged in any such proceedings wilfully attributes to any goods a warranty given in relation to any other goods, he is guilty of an offence and liable to a penalty¹⁷.

A person who, in respect of any goods sold by him in respect of which a warranty might be so pleaded, gives to the buyer a false warranty in writing is guilty of an offence and liable to a penalty unless he proves that, when he gave the warranty, he took all reasonable steps to ensure that the statements contained in it were, and would continue at all relevant times to be, accurate¹⁸.

Where in any such proceedings ('the original proceedings') the person charged relies successfully on a warranty given to him or to his employer, any proceedings¹⁹ in respect of the warranty may, at the option of the prosecutor, be taken either before a court having jurisdiction

in the place where the original proceedings were taken or before a court having jurisdiction in the place where the warranty was given²⁰.

For these purposes, any statement with respect to any goods which is contained in any document required²¹ to be associated with the goods or in any invoice, and, in the case of goods made up in or on a container for sale or for delivery after sale, any statement with respect to those goods with which that container is marked, is to be taken to be a written warranty of the accuracy of that statement²².

1 Ie under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'mark' see PARA 28 note 10 ante.

4 As to the meaning of 'container' see PARA 28 note 8 ante.

5 Weights and Measures Act 1985 s 33(1)(a)(i). Where the person charged is the employee of a person who, if he had been charged, would have been entitled to plead a warranty as a defence, s 33(1) has effect with the substitution, for any reference, however expressed, in s 33(1)(a), (b), (d) and (e) (see heads (1), (2), (4), (5) in the text) to the person charged, of a reference to his employer; and s 33(1)(c) (see head (3) in the text) has effect as if it provided that at the time of the commission of the offence his employer did in fact believe the statement contained in the warranty to be accurate and the person charged had no reason to believe it to be inaccurate: see s 33(3).

6 Ie the requirements of ibid Pt IV (as amended).

7 Ibid s 33(1)(a)(ii). See note 5 supra.

8 Ibid s 33(1)(b). See note 5 supra.

9 Ibid s 33(1)(c). See note 5 supra.

10 As to residence see CONFLICT OF LAWS vol 8(3) (Reissue) PARA 57 et seq.

11 For the meaning of 'Great Britain' see PARA 16 note 11 ante.

12 For the meaning of 'designated country' see PARA 66 note 6 ante.

13 Weights and Measures Act 1985 s 33(1)(d). See note 5 supra.

14 Ibid s 33(1)(e). See note 5 supra.

15 Ibid s 33(2).

16 Ibid s 33(4).

17 Ibid ss 33(5), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 33(5), 84(6). As to the standard scale see PARA 229 note 1 ante. As to prosecution of offences see PARA 226 ante.

18 Ibid ss 33(6), 84(6). The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see ss 33(6), 84(6).

19 Ie under ibid s 33(6).

20 Ibid s 33(7).

21 Ie by or under ibid Pt IV (as amended).

22 Ibid s 33(8).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(2) DEFENCES/(i) Transactions in Goods/234. Reasonable precautions and due diligence.

234. Reasonable precautions and due diligence.

In any proceedings for an offence under the provisions regulating transactions in goods¹, or any instrument made thereunder, it is a defence for the person charged to prove² that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence³.

If in any case the defence so provided involves an allegation that the commission of the offence in question was due to the act or default of another person⁴ or due to reliance on information supplied by another person, the person charged is not entitled, without the leave of the court, to rely on the defence unless, before the beginning of the period of seven days ending with the date when the hearing of the charge began, he served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession⁵.

1 Under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

2 It is thought that the standard of proof is a balance of probabilities: see *Read v West Wales Bakeries Ltd* (1962) 60 LGR 515, DC.

3 Weights and Measures Act 1985 s 34(1). It is a question of fact whether the defence is established: see *Bibby-Cheshire v Golden Wonder Ltd* [1972] 3 All ER 738, [1972] 1 WLR 1487, DC. The taking of such precautions and the exercise of such diligence involves, or may involve, the setting up of an efficient system for the avoidance of offences under the Act and the proper operation of that system: see *Tesco Supermarkets Ltd v Natrass* [1971] 1 QB 133, [1970] 3 All ER 357 (decided under the Trade Descriptions Act 1968 s 24). A mistake in the number of bags of coal delivered which did not involve any dishonesty indicated that the company had not taken all reasonable precautions etc: see *Fayers v Gasson and Rayner* (1975) 139 JP 546, DC. Where solid fuel lost weight due to loss of moisture and no attempt was made to allow for it, the defence could not be made out: see *Kinchin v Haines* [1979] Crim LR 329, DC. To satisfy the defence there must be a check record system, regular checks by a responsible person and training as to legal requirements: see *Baxters (Butchers) Ltd v Manley* (1985) 4 Tr L 219, DC. Where a system of double check-weighing existed and was recorded, the justices were free to conclude that the defence was made out: see *North Yorkshire County Council v Holmesterne Farm Co Ltd* (1985) 150 JP 124, DC.

4 An employee falls within the expression 'another person' if he is not part of the controlling mind and will of the company: see *Tesco Supermarkets Ltd v Natrass* [1972] AC 153, [1971] 2 All ER 127, HL (construing the same words under the Trade Descriptions Act 1968 s 24). It is the physical act or default of the other person which matters: see *Hotchin v Hindmarsh* [1891] 2 QB 181, DC; *Melias Ltd v Preston* [1957] 2 QB 380, [1957] 2 All ER 449, DC. For general discussion of meaning of 'act or default' see *Tesco Supermarkets Ltd v Natrass* supra.

5 Weights and Measures Act 1985 s 34(2). As to offences due to the default of a third person see PARA 231 ante. As to what steps the defendant should take to identify the other person see *McGuire v Sittingbourne Co-operative Society Ltd* [1976] Crim LR 268, DC.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(2) DEFENCES/(i) Transactions in Goods/235. Subsequent deficiency.

235. Subsequent deficiency.

In any proceedings for an offence under the provisions regulating transactions in goods¹, or any instrument made thereunder, by reason of the quantity:

- 872 (1) of any goods made up for sale or for delivery after sale, whether by way of pre-packing² or otherwise, in or on a container³ marked⁴ with an indication of quantity⁵;
- 873 (2) of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document purporting to state the quantity of the goods⁶; or
- 874 (3) of any goods required⁷ to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities⁸,

being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be⁹, it is a defence for the person charged to prove that the deficiency arose:

- 875 (a) in a case falling within head (1) above, after the making up of the goods and the marking of the container¹⁰;
- 876 (b) in a case falling within head (2) above, after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document¹¹;
- 877 (c) in a case falling within head (3) above, after the making up or making, as the case may be, of the goods for sale¹²,

and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be¹³.

In the case of a sale by retail of food¹⁴, other than food pre-packed in a container which is, or is required to be, marked with an indication of quantity, in any proceedings for an offence under the provisions regulating transactions in goods, or any instrument made thereunder, by reason of the quantity delivered to the buyer being less than that purported to be sold, it is a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage¹⁵.

If in any proceedings for an offence under the provisions regulating transactions in goods, or any instrument made thereunder, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged must not be found guilty of that offence unless it is

shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment¹⁶.

- 1 lie under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.
- 2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.
- 3 As to the meaning of 'container' see PARA 28 note 8 ante.
- 4 As to the meaning of 'mark' see PARA 28 note 10 ante.
- 5 Weights and Measures Act 1985 s 35(1)(a). For the meaning of 'indication of quantity' see PARA 28 note 12 ante.
- 6 Ibid s 35(1)(b).
- 7 See note 1 supra.
- 8 Weights and Measures Act 1985 s 35(1)(c).
- 9 Ibid s 35(1).
- 10 Ibid s 35(2)(a).
- 11 Ibid s 35(2)(b).
- 12 Ibid s 35(2)(c).
- 13 Ibid s 35(2). The defence is not restricted to the person who has packed and marked the goods but is available to manufacturers, wholesalers and retailers: *FW Woolworth & Co Ltd v Gray* [1970] 1 All ER 953, [1970] 1 WLR 764, DC.
- 14 For the meaning of 'food' see PARA 107 note 15 ante.
- 15 Weights and Measures Act 1985 s 35(3).
- 16 Ibid s 35(4).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(2) DEFENCES/(i) Transactions in Goods/236. Excess due to precautions.

236. Excess due to precautions.

In any proceedings for an offence under the provisions regulating transactions in goods¹ or any instrument made thereunder, being an offence in respect of any excess in the quantity of any goods, it is a defence for the person charged to prove that the excess was attributable to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in those or other goods².

1 le the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

2 Ibid s 36.

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(2) DEFENCES/(i) Transactions in Goods/237. Provisions as to testing.

237. Provisions as to testing.

If proceedings for an offence under the provisions regulating transactions in goods¹, or any instrument made thereunder, in respect of any deficiency or excess in the quantity:

- 878 (1) of any goods made up for sale, whether by way of pre-packing² or otherwise, in or on a container³ marked⁴ with an indication of quantity⁵; or
- 879 (2) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required⁶ to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities⁷,

are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession⁸ for sale or for delivery after sale, were available for testing, the person charged must not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested⁹.

In any proceedings for such an offence, the court:

- 880 (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, must have regard to the average quantity in all the articles tested¹⁰;
- 881 (b) if the proceedings are with respect to a single article, must disregard any inconsiderable deficiency or excess¹¹; and
- 882 (c) must have regard generally to all the circumstances of the case¹².

The above provisions apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as they apply to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods¹³.

1 le under the Weights and Measures Act 1985 Pt IV (ss 21-46) (as amended): see PARA 105 et seq ante.

2 For the meaning of 'pre-packed' see PARA 28 note 7 ante.

3 As to the meaning of 'container' see PARA 28 note 8 ante.

4 As to the meaning of 'mark' see PARA 28 note 10 ante.

5 Weights and Measures Act 1985 s 37(1)(a). For the meaning of 'indication of quantity' see PARA 28 note 12 ante.

6 See note 1 supra.

7 Weights and Measures Act 1985 s 37(1)(b).

8 Where, by virtue of *ibid* s 32 (see PARA 231 ante), a person is charged with an offence with which some other person might have been charged, the reference in s 37(1) to articles or goods sold by or in the possession of the person charged is to be construed as a reference to articles or goods sold by or in the possession of that other person: s 37(4).

9 *Ibid* s 37(1). Where a person purchases an article and then takes it to an inspector, the inspector is not obliged to test other articles which were available on the same day in the shop where the article was purchased since 'available' means physically present or adjacent and, when a purchaser brings the article to the inspector for testing (as distinct from where an inspector himself selects an article for testing), at that time and place no other articles are available for testing, the time and place at which the article is tested being the same time and place at which the inspector takes hold of the article: *Sears v Smiths Food Group Ltd* [1968] 2 QB 288, [1968] 2 All ER 721, DC. For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors generally see PARA 23 et seq ante.

10 Weights and Measures Act 1985 s 37(2)(a).

11 *Ibid* s 37(2)(b).

12 *Ibid* s 37(2)(c).

13 *Ibid* s 37(3).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/WEIGHTS AND MEASURES (VOLUME 50 (2005 REISSUE))/8. CRIMINAL PROCEEDINGS/(2) DEFENCES/(ii) Packaged Goods/238. Defences to certain charges.

(ii) Packaged Goods

238. Defences to certain charges.

Where a person is charged with an offence¹ of failing to perform the duty imposed on him as a packer² or importer³ in respect of any packages⁴, it is a defence to prove that the test in question took place when the packages were not in his possession and by reference to a nominal quantity⁵ which was not on the packages when they were in his possession⁶.

Where the importer of packages is charged with an offence⁷ of failing to perform the duty imposed on him⁸ in respect of the packages, it is a defence to prove:

- 883 (1) that in respect of the packages the accused performed the duty imposed on him to obtain before the prescribed time, and to keep for the prescribed period, documents containing such information about the packages as is adequate to show that the person is likely to have complied with his duty in relation to the packages⁹; and
- 884 (2) that, within the prescribed period after obtaining the documents so mentioned relating to the packages¹⁰, he took all reasonable steps to verify the information contained in the documents and that, when the relevant test¹¹ began, he believed and had no reason to disbelieve that the information was true¹²; and
- 885 (3) that, before the beginning of the period of seven days ending with the date when the hearing of the charge began, he served on the prosecutor a copy of such documents and a notice¹³ which stated that the accused intended to rely on them in proving a defence under this provision¹⁴; and
- 886 (4) that he took all reasonable steps to ensure that the quantity of goods¹⁵ in each of the packages did not alter while the packages were in his possession¹⁶.

Where a person is charged with an offence¹⁷ of failing to perform his duty to ensure that the container¹⁸ included in the package is marked before the prescribed time and in the prescribed manner with his name and address or a mark which enables his name and address to be readily ascertained¹⁹, it is a defence to prove:

- 887 (a) that the container included in the package was duly marked at the time and in the manner with a mark as to which he had, before that time, given notice to an inspector²⁰ stating that the mark indicated a name and address specified in the notice²¹; and
- 888 (b) that at that time the name and address were such as are mentioned in relation to him²².

Where a person is charged with: (i) an offence of failing to perform a duty imposed on him²³; or (ii) an offence alleged to have been committed by him as the packer or importer of a package²⁴, it is a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence²⁵.

1 Ie an offence under the Weights and Measures Act 1985 s 50(1): see PARA 213 ante.

2 For the meaning of 'packer' see PARA 205 note 18 ante.

3 For the meaning of 'importer' see PARA 205 note 19 ante.

4 Ie the duty imposed on him by the Weights and Measures Act 1985 s 47(1): see PARA 209 ante. For the meaning of 'package' see PARA 207 ante.

5 For the meaning of 'nominal quantity' see PARA 209 note 4 ante.

6 Weights and Measures Act 1985 s 51(1).

7 See note 1 supra.

8 See note 4 supra.

9 Weights and Measures Act 1985 s 51(2)(a). The duty referred to in the text is the duty imposed by s 49(2)(b): see PARA 211 head (ii) ante.

10 The period within which, for the purposes of *ibid* s 51(2)(b), an importer must take steps to verify the information contained in documents obtained by him in pursuance of s 49(2)(b) (see PARA 211 head (ii) ante) is 28 days beginning with the day on which he obtained either the documents or the packages to which they relate, whichever is the later: Weights and Measures (Packaged Goods) Regulations 1986, SI 1986/2049, reg 17.

- 11 le in pursuance of the Weights and Measures Act 1985 s 47(1): see PARA 209 ante.
- 12 Ibid s 51(2)(b).
- 13 For the meaning of 'notice' see PARA 212 note 19 ante.
- 14 Weights and Measures Act 1985 s 51(2)(c).
- 15 As to the meaning of 'goods' see PARA 205 note 5 ante.
- 16 Weights and Measures Act 1985 s 51(2)(d).
- 17 See note 1 supra.
- 18 As to the meaning of 'container' see PARA 205 note 5 ante.
- 19 le the duty imposed by the Weights and Measures Act 1985 s 48(1)(b): see PARA 210 head (2) ante.
- 20 For the meaning of 'inspector' see PARA 22 note 7 ante. As to inspectors of weights and measures see PARA 23 ante; as to inspectors' powers of entry see PARA 27 ante; and as to obstruction and failure to assist inspectors see PARA 35 ante.
- 21 Weights and Measures Act 1985 s 51(3)(a).
- 22 Ibid s 51(3)(b).
- 23 Ibid s 51(4)(a). The offence referred to in the text is an offence under s 50(1): see PARA 213 ante.
- 24 Ibid s 51(4)(b). The offence referred to in the text is an offence under s 50(5) or s 50(6): see PARA 213 ante.
- 25 Ibid s 51(4).

UPDATE

205-238 Packaged Goods

Certain functions under provisions mentioned in these paragraphs are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

238 Defences to certain charges

TEXT AND NOTES--Repealed: Weights and Measures (Packaged Goods) Regulations 2006, SI 2006/659.